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## APPENDIX III.

[Vide item V (4) on page 426 supra.]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE  
ENDOWMENTS BILL, 1959 (L.A. BILL No. 7 OF 1959).

*Note.*—The changes made are sidelined or underlined and the portions omitted are indicated by dots.

*A Bill to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras.*

WHEREAS it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras; Be it enacted in the Tenth Year of the Republic of India, as follows :—

## CHAPTER I—PRELIMINARY.

1. *Short title, extent, application and commencement.*—(1) This Act, may be called the Madras Hindu Religious and Charitable Endowments Act, 1959.

(2) It extends to the whole of the State of Madras.

(3) It applies to all Hindu Public Religious institutions and endowments except the Incorporated Devaswoms and Unincorporated Devaswoms.

*Explanation.*—In this sub-section, Hindu public religious institutions and endowments do not include Jain religious institutions and endowments.

(4) (a) The provisions of this Act except the provisions of—

(i) sub-section (4) of section 92 in so far as that sub-section relates to Consultative Committees and sub-committees thereof, and

(ii) clause (xxi) (b) of sub-section (2) of section 116, shall come into force, on such date as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.

(b) The provisions of sub-section (4) of section 92 in so far as that sub-section relates to Consultative Committees and sub-committees thereof and of clause (xxi) (b) of sub-section (2) of section 116 shall be deemed to have come into force on the 28th November 1958.

2. *Power to extend Act to Jain Religious Institutions and Endowments.*—(1) The Government may, by notification, extend to Jain public religious institutions and endowments, all or any of the provisions of this Act and of any rules made thereunder and thereupon, the provisions so extended shall apply to such institutions and endowments . . .

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Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of the intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions and endowments concerned to show cause against the issue of the notification, and consider their objections, if any.

(2) In this Act, wherever the word 'Hindu' occurs, it shall, in respect of Jain public religious institutions and endowments to which the provisions of this Act have been extended under sub-section (1), be construed to mean 'Jain', unless the context otherwise requires.

**3. Power to extend Act to Charitable Endowments.**—(1) Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged, they may direct the Commissioner to inquire, or to cause an inquiry to be made by any officer authorized by him in this behalf, into the affairs of such charitable endowment and to report to them whether, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder.

(2) The Commissioner or the officer authorized by him under sub-section (1) shall, while making an inquiry under that sub-section, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act V. of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of books, accounts, documents, securities, cash and other properties belonging to or in the custody of such charitable endowment and shall follow the procedure applicable under the said Code in regard to recording of evidence and hearing of parties.

(3) If, after considering the report of the Commissioner submitted under sub-section (1), the Government are satisfied that such charitable endowment is being mismanaged and that, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification, extend to such charitable endowment the said provisions, and thereupon, the provisions so extended shall apply to such charitable endowment as if it were a specific endowment:

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification and consider their objections, if any.



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(4) Notwithstanding anything contained in the section, the Government may, on application made by the trustee of any Hindu or Jain public charitable endowment, or where there are more trustees than one, then by those trustees or a majority of them and with the concurrence of the trustee or trustees making the application, extend, by notification, to such charitable endowment all or any of the provisions of this Act and of any rules made thereunder, and thereupon, the provisions so extended shall apply to such charitable endowment as if it were a specific endowment.

**4. Exemptions.**—The Government may, by notification, exempt from the operation of any of the provisions of this Act or of any rules made thereunder any religious institution or religious or charitable endowment or vary or cancel any such exemption :

Provided that before such exemption is varied or cancelled, the person affected shall be given a reasonable opportunity of showing cause against such variation or cancellation.

**5. Certain Acts not to apply to Hindu Religious Institutions and Endowments.**—The following enactments shall cease to apply to Hindu religious institutions and endowments, namely :—

(a) The Madras Endowments and Escheats Regulation, 1817 (Madras Regulation VII of 1817);

(b) the Religious Endowments Act, 1863 (Central Act XX of 1863);

(c) the Charitable Endowments Act, 1890 (Central Act VI of 1890);

(d) the Charitable and Religious Trusts Act, 1920 (Central Act XIV of 1920); and

(e) sections 92 and 93 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

**6. Definitions.**—In this Act, unless the context otherwise requires—

(1) “ Advisory Committee ” means the Committee constituted by the Government under sub-section (1) of section 7;

(2) “ Area Committee ” means, in relation to any temple or specific endowment, the Area Committee constituted under this Act and exercising powers and discharging duties in respect of such temple or specific endowment :

Provided that in respect of the transferred territory, the powers and duties of the Area Committee shall, until the date of the constitution of the Kanyakumari Devaswom Board under Chapter II of the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), be exercised and discharged by such authority or officer, as may be specified by the Government and after the date of the constitution of such Board, such Board shall be deemed to be the Area Committee.

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(3) "Assistant Commissioner" means an Assistant Commissioner appointed under section 9;

(4) "Board" means the Board constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927);

(5) "charitable endowment" means all property given or endowed for the benefit of, or used as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned;

(6) "Commissioner" means the Commissioner appointed under section 9;

(7) "Court" means—

(i) in relation to a math or temple situated in the Presidency town, the Madras City Civil Court;

(ii) in relation to a math or temple situated elsewhere, the Subordinate Judge's Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to a specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math or temple.

(iv) in relation to a specific endowment attached to two or more maths or temples, any Court which would have jurisdiction as aforesaid in relation to either or any of such maths or temples;

(8) "Deputy Commissioner" means a Deputy Commissioner appointed under section 9;

(9) "executive officer" means a person who is appointed to exercise such powers and discharge such duties appertaining to the administration of a religious institution as are assigned to him by or under this Act or the rules made thereunder or by any scheme settled or deemed to have been settled under this Act;

(10) "Government" means the State Government;

(11) "hereditary trustee" means the trustee of religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;

(12) "Incorporated Devaswoms" means the Devaswoms mentioned in Schedule I to the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950);



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(13) "math" means a Hindu religious institution with properties attached thereto and presided over by a person, the succession to whose office devolves in accordance with the direction of the founder of the institution or is regulated by usage and—

(i) whose duty it is to engage himself in imparting religious instruction or rendering spiritual service; or

(ii) who exercises or claims to exercise spiritual headship over a body of disciples; and includes places of religious worship or instruction which are appurtenant to the institution;

*Explanation.*—Where the headquarters of a math are outside the State but the math has properties situated within the State, control shall be exercised over the math in accordance with the provisions of this Act, in so far as the properties of the math situated within the State are concerned;

(14) "non-hereditary trustee" means a trustee who is not a hereditary trustee;

(15) "person having interest" means—

(a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;

(b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;

(c) in the case of a specific endowment a person who is entitled to attend at or is in the habit of attending the performance of the service or charity, or who is entitled to partake or is in the habit of partaking in the benefit of the charity;

(16) "religious charity" means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not;

(17) "religious endowment" or "endowment" means all property belonging to or given or endowed for the support of maths or temples, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof; but does not include gifts of property made as personal gifts to the archaka, service-holder or other employee of a religious institution;

*Explanation (1).*—Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be a religious endowment.

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*Explanation (2).*—All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a “religious endowment” or “endowment” within the meaning of this definition, notwithstanding that, before or after the date of the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed:

Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the 30th September 1951, by the operation of the law of limitation.

(18) “religious institution” means a math, temple or specific endowment;

(19) “specific endowment” means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (17);

*Explanation (1).*—Two or more endowments of the nature specified in this clause, the administration of which is vested in a common trustee, or which are managed under a common scheme settled or deemed to have been settled under this Act shall be construed as a single specific endowment for the purposes of this Act:

*Explanation (2).*—Where a specific endowment attached to a math or temple is situated partly within the State and partly outside the State, control shall be exercised in accordance with the provisions of this Act over the part of the specific endowment situated within the State;

(20) “temple” means a place by whatever designation known, used as a place of public religious worship, and dedicated to, or for the benefit of, or used as of right by, the Hindu community or any section thereof, as a place of public religious worship;

*Explanation.*—Where a temple situated outside the State has properties situated within the State, control shall be exercised over the temple in accordance with the provisions of this Act, in so far as the properties of the temple situated within the State are concerned;

(21) “transferred territory” means the Kanyakumari district and the Shencottah taluk of the Tirunelveli district;

(22) “trustee” means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee.



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(23) "Unincorporated Devaswoms" means the Devaswoms mentioned in Schedule II to the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950).

7. *Constitution of Advisory Committee.*—(1) The Government may constitute for the State of Madras a Committee called the Advisory Committee consisting of—

(i) the Minister in charge of Hindu Religious Institutions and Endowments, who shall be the Chairman, ex-officio;

(ii) the Secretary to the Government in the Department in charge of Hindu Religious Institutions and Endowments, ex-officio;

(iii) the Commissioner, ex-officio; and

(iv) twelve non-officials professing the Hindu religion appointed by the Government.

(2) The Secretary to the Government referred to in clause (ii) of sub-section (1), or such other officer as may be nominated by the Government in this behalf from time to time shall be the Secretary to the Advisory Committee.

(3) The term of office of the members referred to in clause (iv) of sub-section (1) shall be three years or such shorter period as the Government may fix.

(4) The functions of the Advisory Committee shall be—

(a) to make recommendations to the Government in respect of such matters as may be prescribed; and

(b) to advise the Government in respect of such matters as may be referred by the Government to the Committee.

(5) If there is a difference of opinion among the members of the Advisory Committee, the decision of the majority of the members present shall prevail:

Provided that when their opinion is equally divided, the Chairman shall have and exercise a casting vote.

(6) (a) A member referred to in clause (iv) of sub-section (1) may, at any time by notice in writing to the Collector, resign his office. But he shall continue in office until the appointment of a successor.

(b) A casual vacancy created by the resignation of a member under clause (a) or otherwise shall be filled up by fresh appointment.

## CHAPTER II—THE COMMISSIONER AND OTHER CONTROLLING AUTHORITIES.

8 *Authorities under Act.*—There shall be the following classes of authorities under this Act, namely :—

(a) The Commissioner;

(b) Deputy Commissioners;

(c) Assistant Commissioners; and

(d) Area Committees.

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**9. Government to appoint Commissioner, etc.**—(1) The Government shall appoint the Commissioner and such number of Deputy and Assistant Commissioners as they think fit.

(2) (a) Appointment to the post of Commissioner shall be by transfer from among the members of the Madras State Higher Judicial Service or of any other service or by direct recruitment.

(b) Appointment to the post of Deputy Commissioner shall be by transfer from among the members of the Madras State Judicial Service or of any other service or by direct recruitment.

(c) Where the post of the Commissioner is not held by a member of the Madras State Higher Judicial Service, at least one of the posts of Deputy Commissioners shall be held by a member of the Madras State Judicial Service.

**10. Commissioner, etc., to be Hindus.**—The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu religion, and shall cease to hold office as such when he ceases to profess that religion.

**11. Commissioner to be Corporation Sole.**—The Commissioner shall be a Corporation Sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.

**12. Commissioner, etc., to be servants of Government.**—(1) The Commissioner, Deputy Commissioners, Assistant Commissioners and other officers and servants including executive officers of religious institutions employed for the purposes of this Act shall be servants of the Government and their salaries, allowances, pensions and other remuneration shall be paid in the first instance out of the Consolidated Fund of the State. The costs, charges and expenses other than those referred to in section 93 incurred by the Area Committees and the cost of auditing the accounts of religious institutions shall also be paid in the first instance out of the Consolidated Fund of the State.

(2) (a) The Commissioner shall, out of the Madras Hindu Religious and Charitable Endowments Administration Fund, repay to the Government sums paid by the Government under subsection (1).

(b) The Commissioner shall recover from the religious institution concerned the salaries, allowances, pensions and other remuneration paid to the executive officers of religious institutions and credit the amount so recovered to the fund mentioned in clause (a).



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**13. Delegation to Deputy Commissioners.**—(1) The Commissioner shall, with the previous approval of the Government, specify the area within which each Deputy Commissioner, if there is more than one, shall exercise the powers conferred and discharge the duties imposed by this Act or the rules made thereunder on a Deputy Commissioner as such.

(2) The Commissioner may delegate any of the powers conferred or duties imposed on him by this Act or the rules made thereunder [including the powers and duties of an Assistant Commissioner which may be exercised by the Commissioner under the proviso to sub-section (2) of section 14 but not including the powers and duties of the Commissioner under sections 21, 22, 46, 47, 59, 69, 72 or sub-section (2) of section 92], in respect of any area or of any class or group of institutions in the State or any area therein to a Deputy Commissioner subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

**14. Territorial jurisdiction and powers and duties of Assistant Commissioners.**—(1) The Commissioner shall, with the previous approval of the Government divide the State into divisions, each of which shall be in the charge of an Assistant Commissioner.

(2) An Assistant Commissioner shall exercise the powers conferred and discharge the duties imposed on him by this Act or the rules made thereunder in respect of his division :

Provided that the Commissioner may, by order in writing, declare that the exercise and discharge of all or any of such powers and duties shall be subject to such exceptions, limitations and conditions as may be specified in the order, and may himself exercise or discharge any power or duty so excepted.

(3) The Commissioner may delegate to an Assistant Commissioner any of the powers conferred or duties imposed on the Commissioner by this Act or the rules made thereunder [other than the powers and duties referred to in sections 21, 22, 46, 47, 59, 69, 72 or sub-section (2) of section 92] in respect of the division of the Assistant Commissioner or of any institutions or any class or group of institutions in that division, subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

**15. Area Committees.**—(1) The Government, by notification,—

(a) shall constitute an Area Committee for all temples situated in an Assistant Commissioner's division or part thereof other than temples included in the list published under section 46,

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(b) may vary the strength or jurisdiction of any Area Committee, or

(c) may abolish any Area Committee :

Provided that before the issue of a notification under clause (b) or clause (c), the Government shall communicate to the Commissioner and the Area Committee concerned, the grounds on which they propose to do so, fix a reasonable period for the Commissioner or the Area Committee to show cause against the proposal and consider their suggestions and objections, if any.

(2) An Area Committee shall exercise the powers conferred and discharge the duties imposed on it by this Act or the rules made thereunder in respect of—

(i) the temples for which it is constituted,

(ii) the specific endowments attached to such temples, other than the specific endowments included in the list published under section 46, and

(iii) the charitable endowments to which the provisions of this Act have been extended under section 3 :

Provided that where a specific endowment is attached to two or more temples comprised within the jurisdiction of two or more Area Committees, or where a charitable endowment to which the provisions of this Act have been extended under section 3 consists of properties situated within the jurisdiction of two or more Area Committees, the Commissioner shall decide as to which of the Area Committees shall exercise the powers and discharge the duties in respect of such specific endowment or charitable endowment :

Provided further that where a specific endowment is attached partly to one or more temples included in the list published under section 46 and partly to one or more temples not so included, only the Commissioner shall exercise the powers and discharge the duties in respect of such specific endowment.

**16. Strength of Area Committee and term of office and disqualifications of members.**—(1) Every Area Committee shall consist of the Chairman and not less than two and not more than four members. The Chairman and members shall be appointed by the Government.

(2) Save as otherwise expressly provided in this section, a member of an Area Committee shall be entitled to hold office for three years from the date on which his appointment is notified in the *Fort St. George Gazette* :

Provided that any member holding office on the date of the commencement of this Act shall continue to hold office until such date as the Government may specify in that behalf.



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(3) A person shall be disqualified for being appointed as, and for being a member of an Area Committee—

- (a) if he does not profess the Hindu religion;
- (b) if he is less than twenty-five and more than seventy years of age;
- (c) if he is an undischarged insolvent;
- (d) if he is of unsound mind or is suffering from mental defect or infirmity which would render him unfit to perform the functions and discharge the duties of a member of an Area Committee or is suffering from leprosy or any other loathsome disease;
- (e) if he is a trustee of, or an office-holder or a servant attached to or a person in receipt of any emolument or perquisite from any religious institution or endowment in respect of which the Area Committee exercises powers and discharges duties or belongs to a joint Hindu family a member of which is such a trustee, office-holder or servant or a person in receipt of any such emolument or perquisite;
- (f) if he is interested in a subsisting lease of any property of, or contract made with or any work being done for, any religious institution or specific endowment in respect of which the Area Committee exercises powers and discharges duties or is in arrears of any kind due by him to such religious institution or endowment;
- (g) if he is employed as a paid legal practitioner on behalf of or against any religious institution or endowment in respect of which the Area Committee exercises powers and discharges duties;
- (h) if he has been sentenced by a criminal court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned;
- (i) if he is already a member of another Area Committee;
- (j) if he has acted adverse to the interests of any institution in respect of which the Area Committee exercises powers and discharges duties.

(4) If a member of an Area Committee—

(a) becomes subject to any of the disqualifications mentioned in sub-section (3); or

(b) resigns his seat by writing under his hand addressed to the Government his seat shall thereupon become vacant.

(5) A member of an Area Committee shall cease to hold his office if he absents himself from three consecutive meetings of the Committee within a period of two months:

Provided that when a person who has ceased to be a member by reason of such absence applies for restoration within one month from the date of the last of the three consecutive meetings, the committee may, at the meeting next after the receipt of such application, restore him to his office of member, but a member shall not be so restored more than once during his term of office.

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*Explanation.*—A meeting adjourned for want of quorum shall be deemed to be a meeting for the purpose of this sub-section.

(6) If any question arises as to whether a member of an Area Committee has become subject to any of the disqualifications mentioned in sub-section (3), the question shall be referred for the decision of the Deputy Commissioner and his decision shall be final.

**17. Secretary of Area Committee.**—(1) The Assistant Commissioner of the division for which or for part of which an Area Committee is constituted, shall be its Secretary.

(2) The Secretary to the Area Committee shall have a right to take part in the discussions of the Area Committee, but he shall not have a right to vote at a meeting of that committee.

(3) Every meeting of the Committee shall be presided over by the Chairman and all questions at every meeting shall be decided by a majority of the members present and voting at the meeting and in any case of equality of votes, the Chairman shall have and exercise a second or casting vote.

(4) The Secretary shall forward to the Commissioner through the Deputy Commissioner of the division, a copy of the minutes of the proceedings of every meeting of the Area Committee within a week from the date of the meeting and he shall further bring to the notice of the Commissioner through the Deputy Commissioner, his own views in respect of any item of the proceedings of the Area Committee and suggest such action as he may consider necessary.

**18. Power of Government to make rules.**—The Government may make rules regarding the convening of meetings of Area Committees, the quorum for, and the conduct of business at such meetings, and all matters relating to the transaction of their business.

**19. Act of Area Committee not to be invalidated by informality.**—No act of an Area Committee shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member thereof was disqualified for, or had ceased to hold, his office, or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of such committee.

**20. Performance of functions of Area Committee on abolition.**—Where an Area Committee has been abolished under clause (c) of sub-section (1) of section 15, a new Area Committee shall be constituted within six months of its abolition and till then its powers and duties shall be exercised and discharged by the Assistant Commissioner concerned.



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**21. Power of Commissioner to call for records and pass orders.—**

(1) The Commissioner may call for and examine the record of any Deputy or Assistant Commissioner, of any Area Committee, or of any trustee of a religious institution other than a math or a specific endowment attached to a math in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.

(2) If any such decision or order has been passed by any Deputy or Assistant Commissioner or by the trustee of any religious institution other than a math or a specific endowment attached to a math and other than one included in the list published under section 46, and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

(3) (a) If any such decision or order has been passed by any Area Committee or by the trustee of any religious institution included in the list published under section 46, the Commissioner may, if he thinks fit, remit the matter together with his observations in regard thereto, to the committee or trustee for reconsideration of the decision or order and report to the Commissioner within a time to be specified by him in this behalf.

(b) On receipt of, and after considering, such report, it shall be open to the Commissioner to modify, annul or reverse the decision or order, as revised after such reconsideration, as the case may be.

(c) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of the Area Committee or trustee, as the case may be.

(4) (a) The Commissioner may call for and examine the record of any trustee of a math or a specific endowment attached to a math in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act) to satisfy himself as to the legality of any decision or order passed therein.

(b) If any such decision or order has been passed illegally by the trustee of a math or a specific endowment attached to a math and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

(5) The Commissioner shall not pass any order prejudicial to any party under sub-section (2) or clause (b) or clause (c) of sub-section (3), or under clause (b) of sub-section (4), without hearing him or giving him a reasonable opportunity of being heard.

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(6) The Commissioner may stay the execution of any decision or order of the nature referred to in sub-section (1) or clause (a) of sub-section (4), pending the exercise of his powers under sub-section (2) or sub-section (3) of under clause (b) of sub-section (4) in respect thereof.

(7) Every application to the Commissioner for the exercise of his powers under this section shall be preferred within three months from the date on which the order or proceeding to which the application relates was communicated to the applicant.

**22. Other powers of Commissioner.**—(1) The Commissioner shall have power at any stage—

(a) to transfer any proceeding pending before a Deputy or an Assistant Commissioner to his own file and dispose of it himself, or

(b) to transfer it to another Deputy or Assistant Commissioner for disposal.

(2) If the Commissioner is satisfied that a Deputy or an Assistant Commissioner has failed to exercise any power or discharge any duty which he ought to have exercised or discharged, the Commissioner may himself exercise such power or discharge such duty.

(3) If the Commissioner is satisfied that an Area Committee—

(a) has failed to exercise any power or discharge any duty which it ought to have exercised or discharged, or

(b) is unable for any reason to exercise any power or discharge any duty,

the Commissioner may himself exercise such power or discharge such duty or authorize the Assistant Commissioner to do so :

Provided that in cases falling under clause (a), the Commissioner shall first fix a period for the exercise of the power or the discharge of the duty by the Area Committee and shall exercise the right conferred on him by this sub-section only if the power is not exercised or the duty is not discharged by the Area Committee within the period so fixed :

Provided further that the Commissioner shall, before taking action under clause (b), give to the Area Committee, a reasonable opportunity of showing cause against the action proposed.

(4) Notwithstanding anything contained in this Act, where the office of a Deputy or an Assistant Commissioner is vacant, the Commissioner may, until the vacancy is filled—

(a) himself exercise the powers conferred and discharge the duties imposed by this Act or the rules made thereunder on the Deputy or Assistant Commissioner, or



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(b) authorize another Deputy or Assistant Commissioner to exercise the said powers and discharge the said duties.

(5) Any party aggrieved by an order of the Commissioner under sub-section (1) (a), (2), (3) or (4) (a), not being an order against which a suit or an appeal to a Court is provided in this Act, may appeal to the Government within three months from the date of the receipt of the order by him :

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

### CHAPTER III—RELIGIOUS INSTITUTIONS.

#### *General Provisions.*

**23. Powers and duties of Commissioner in respect of religious endowments.**—Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.

**24. Power to enter religious institutions.**—(1) The Commissioner, or a Deputy or an Assistant Commissioner or any officer authorized by the Commissioner or the Area Committee in this behalf shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred or discharging any duty imposed by this Act, or the rules made thereunder.

(2) If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.

(3) In entering the *sanctum sanctorum* or *pooja graha* or any other portion held specially sacred with the premises of a religious institution or place of worship, the person authorized by or under sub-section (1) or the police officer referred to in sub-section (2), shall give reasonable notice to the trustee or head of the institution and shall have due regard to the religious practice or usage of the institution.

(4) Nothing in this section shall be deemed to authorize any person who is not a Hindu to enter the premises or place referred to in this section or any part thereof.

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**25. Commissioner, etc., to observe appropriate forms and ceremonies.**—The Commissioner, a Deputy Commissioner, an Assistant Commissioner or a member of an Area Committee and every other person exercising powers of superintendence or control under this Act, shall, so far as may be, observe forms and ceremonies appropriate to the religious institution in respect of which such powers are exercised and in the case of a math, act in conformity with the usages of the math in his dealings with the head of the math.

**26. Qualifications of trustees.**—(1) A person shall be disqualified for being appointed as, and for being, a trustee of any religious institution—

- (a) if he does not profess the Hindu religion;
- (b) except in the case of a hereditary trustee, if he is less than twenty-five and more than seventy years of age;
- (c) if he is an undischarged insolvent;
- (d) if he is of unsound mind or is suffering from mental defect or infirmity which would render him unfit to perform the functions and discharge the duties of a trustee or is suffering from leprosy or any other loathsome disease;
- (e) if he is interested in a subsisting lease of any property of, or contract made with or any work being done for the religious institution or is in arrears of any kind due by him to such religious institution or endowment;
- (f) if he is employed as a paid legal practitioner on behalf of or against the religious institution;
- (g) if he has been sentenced by a criminal court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned;
- (h) if he has acted adverse to the interests of the institution.

(2) If a trustee—

(a) becomes subject to any of the disqualifications mentioned in sub-section (1); or

(b) resigns his seat by writing under his hand addressed—

(i) in the case of trustees appointed by the Area Committee, to the Assistant Commissioner, and

(ii) in any other case to the Commissioner, his seat shall thereupon become vacant.

(3) If any question arises as to whether a trustee has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the Deputy Commissioner.



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(4) If a hereditary trustee becomes subject to any of the disqualifications mentioned in sub-section (1), the Deputy Commissioner may supersede the trustee.

(5) Any person affected by an order of the Deputy Commissioner under sub-section (3) or sub-section (4) may, within one month from the date of receipt of the order by him, appeal against the order to the Commissioner.

(6) The trustee of a religious institution for which a Board of Trustees has been constituted shall cease to hold office if he absents himself from three consecutive meetings of such Board of Trustees within a period of two months:

Provided that when a person who has ceased to be a trustee by reason of such absence applies for restoration within one month from the date of the last of the three meetings, the Board of Trustees may, at the meeting next after the receipt of such application, restore him to his office of trustee; but a trustee shall not be so restored more than once during his term of office.

*Explanation.*—A meeting adjourned for want of quorum shall be deemed to be a meeting for the purpose of this sub-section.

**27. Trustee bound to obey orders issued under Act.**—The trustee of a religious institution shall be bound to obey all lawful orders issued under the provisions of this Act by the Government, the Commissioner, the Deputy Commissioner, the Area Committee or the Assistant Commissioner.

**28. Care required of trustee and his powers.**—(1) Subject to the provisions of the Madras Temple Entry Authorization Act, 1947 (Madras Act V of 1947), the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.

(3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges or expenses incurred by him in any suit, appeal or application or other proceeding for, or incidental to, his removal from office or the taking of any disciplinary action against him:

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under section 102.

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**29. Preparation of register for all institutions.**—(1) For every religious institution, there shall be prepared and maintained a register in such form as the Commissioner may direct showing—

(a) the origin and history of the institution and the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;

(b) particulars of the scheme of administration and of the *dittam* or scale of expenditure;

(c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;

(d) the jewels, gold, silver, precious stones, vessels and utensils and other movables belonging to the institution, with their weights and estimated value;

(e) particulars of all other endowments of the institution and of all title-deeds and other documents;

(f) particulars of the idols and other images in or connected with the institution, whether intended for worship or for being carried in processions;

(g) particulars of ancient or historical records with their contents in brief;

(h) such other particulars as may be required by the Commissioner.

(2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorized agent and submitted by him to the Commissioner, directly in the case of a math, through the Area Committee, in case the institution is one in respect of which the Area Committee exercises powers and discharges duties and through the Assistant Commissioner in other cases, within three months from the date of the commencement of this Act or from the founding of the institution, as the case may be, or within such further period as may be allowed by the Commissioner, the Area Committee or the Assistant Commissioner :

Provided that this sub-section shall not apply where a register so signed and verified has been submitted to—

(i) the Board before the 30th September 1951; and

(ii) the Commissioner after the 30th September 1951 and before the date of the commencement of this Act.

(3) The Area Committee or the Assistant Commissioner, if the register is submitted through it or him, may, after such inquiry as it or he may consider necessary, recommend such alterations, omissions or additions in the register as it or he may think fit.

(4) The Commissioner may, after receiving the register and the recommendations of the Area Committee or of the Assistant Commissioner with respect thereto and making such further



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inquiry as he may consider necessary, direct the trustee to make such alterations, omissions or additions in the register as the Commissioner may deem fit.

(5) The trustee shall carry out the orders of the Commissioner and then submit three copies of the register as corrected to the Commissioner for approval.

(6) One copy of the register as approved by the Commissioner shall be furnished to the trustee and one to the Area Committee or the Assistant Commissioner concerned, if any.

**30. Annual verification of the register.**—The trustee or his authorized agent shall scrutinize the entries in the register every year and submit to the Commissioner for his approval, directly or through the Area Committee or through the Assistant Commissioner, as the case may require, a verified statement showing the alterations, omissions or additions required in the register; and the provisions of sub-sections (3) to (6) of section 29 shall apply in relation to such statement as they apply in relation to a register.

**31. Submission of register once in ten years.**—The trustee or his authorized agent shall submit to the Commissioner for his approval directly or through the Area Committee or through the Assistant Commissioner, as the case may require, once in every ten years (commencing from the year in which the register required under section 29 is first submitted), a consolidated register incorporating therein all alterations, omissions and additions made or required to be made in the register submitted under section 29 and the provisions of that section shall apply to such consolidated register as if it were a register submitted under that section.

**32. Trustee to furnish accounts, returns, etc.**—(1) The trustee of every religious institution shall furnish to the Commissioner such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income or moneys connected therewith, or the appropriation thereof, as the Commissioner may require and at such time and in such form as he may direct.

(2) Without prejudice to the provisions contained in sub-section (1), the Assistant Commissioner in the case of any religious institution other than a math and the Area Committee in the case of any religious institution in respect of which the Area Committee exercises powers and discharges duties, may require the trustee of such religious institution to furnish to him or if such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income or moneys connected therewith or the appropriation thereof and at such time and in such form as he or it may direct.

**33. Inspection of property and documents.**—(1) The Commissioner or any officer or other person deputed by the Commissioner in this behalf, and in the case of institutions in respect of which the Area Committee exercises powers and discharges duties any

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member of the Committee authorized by it in this behalf, may with due regard to the religious practice or usage of the institution, inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to any religious institution . . .

(2) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of sub-section (1) and also to produce for inspection any movable property or document referred to in sub-section (1) and to furnish such information as may be necessary in connection with such inspection, if so required.

(3) Where in the course of such inspection, it appears that the trustee of the institution concerned, or any of the officers or servants working under him, his agent or any other person having concern in the administration of the institution, past or present, has misappropriated or fraudulently retained any money or other property or incurred irregular, illegal or improper expenditure . . . the Commissioner may, after giving notice to the trustee or person concerned to show cause why an order of such charge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the institution.

The procedure laid down in sub-sections (3) to (7) of section 90 shall apply to the recovery of the amount of surcharge.

**34. Alienation of immovable trust property.**—(1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purposes of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution :

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Commissioner.

*Explanation.*—Any lease of the property above mentioned though for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.

(2) When according such sanction, the Commissioner may impose such conditions and give such directions as he may deem



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necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may, within three months from the date of his receipt of a copy of the order, and any person having interest may, within three months from the date of the publication of the order, appeal to the Government to modify the order or set it aside.

(5) Nothing contained in this section shall apply to the inams referred to in section 41.

**35. Authority of trustee to incur expenditure for securing health, etc., of pilgrims and worshippers and for training of archakas, etc.**—(1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in sub-section (2) of section 86, incur expenditure—

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, vedaparayanikas and othuvans.

(2) In incurring such expenditure, the trustee of the religious institution other than a math or a specific endowment attached to a math shall be guided by such general or special instructions as may be given by the Commissioner, and in the case of any institution in respect of which an Area Committee exercises powers and discharges duties, also by such Committee.

**36. Utilization of surplus funds.**—With the previous sanction of the Commissioner, and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institution, may appropriate for any of the purposes specified in sub-section (1) of section 66—

(i) any portion of the accumulated surplus of such institution, and

(ii) if, after making adequate provision for the purposes referred to in sub-section (2) of section 86 and also for the arrangements and the training referred to in sub-section (1) of section 35, there is a surplus in the income of the institution for any year, any portion of such surplus :

Provided that the trustee shall in appropriating the surplus under this section, give preference to the purposes specified in items (a) to (g) of sub-section (1) of section 66 :

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Provided further that, before according the sanction under this section, the Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest :

Provided also that the sanction aforesaid shall be published in such manner as may be prescribed :

Provided also that nothing in this section shall prevent the trustee of a math or of a specific endowment attached to a math from utilizing the surplus referred to in this section in such manner as he deems fit.

**37. Appeals.**—Any person aggrieved by a decision of the Commissioner under section 36 may, within ninety days from the date of the decision, appeal to the Government.

**38. Enforcement of service or charity in certain cases.**—(1) Where a specific endowment attached to a math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise. In default of such person making payment as required, the Commissioner in the case of a specific endowment attached to a math, and the Deputy Commissioner in the case of a specific endowment attached to a temple, may, on the application of the trustee and after giving the person in possession, a reasonable opportunity of stating his objections in regard thereto, by order determine the amount payable to the trustee.

(2) Where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Commissioner in the case of a specific endowment attached to a math and the Deputy Commissioner in the case of a specific endowment attached to a temple, may, on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of stating his objections in regard thereto, by order, require the person responsible in law to pay to the person in possession the amount so paid or recovered.

(3) Against an order of the Commissioner or the Deputy Commissioner under sub-section (1), or sub-section (2), the trustee or the person affected may, within two months from the date of the receipt of the order by him, appeal to the Government or the Commissioner as the case may be.

An order passed on appeal by the Government or the Commissioner shall be final.



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(4) On application by the trustee to the Collector of the district in which the property referred to in sub-section (1) is situated, or on application by the person in possession to the Collector of the district in which is situated any property of the person responsible in law, as the case may be, the Collector shall recover from the person in possession or the person responsible in law, as the case may be, the amount specified in the order of the Commissioner or the Deputy Commissioner as modified in appeal, if any, and the expenses of such recovery, as if they were arrears of land revenue and pay to the trustee or, as the case may be, to the person in possession, the amount due to him.

**39. Power of trustee of math or temple over trustees of specific endowments.**—The trustee of a specific endowment made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

**40. Enfranchisement of lands, etc., held by a devadasi on condition of service in a temple.**—(1) (a) (i) Where the remuneration for any service to be performed by a devadasi in temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the Government shall enfranchise the said lands from the condition of service, by the imposition of quit-rent.

(ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Government shall enfranchise such assignment of revenue from the condition of service.

Provided that where, at the time when proceedings are taken under this sub-clause the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in sub-clause (i).

(iii) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in sub-clause (i) and of the assignment of the land revenue in the manner laid down in sub-clause (ii).

**Explanation.**—For the purposes of this clause, a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the proviso to sub-clause (ii), the owner of the lands in question.

(b) Enfranchisement under clause (a) shall be effected in accordance with such rules as the Government may make in this behalf and shall take effect as and from such date as they may fix.

(2) Where the remuneration for such service consists in whole or in part, of lands or of produce of lands not falling under sub-section (1), the Government shall direct the District Collector to

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determine the amount of rent payable on the lands or the produce in question. The District Collector shall thereupon, after giving notice to the party concerned and holding such inquiry as may be prescribed by the Government, by an order, determine the amount of rent, and in doing so, he shall have due regard to—

(a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages; and

(b) the improvements, if any, effected by the devadasi in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the District Collector under sub-section (2) may be questioned by the petition presented to the Board of Revenue within three months of the date of the publication of the order under the said sub-section but subject to the result of such petition, the order of the District Collector fixing the amount of rent under sub-section (2) shall be final and shall not be liable to be questioned in any Court of law :

Provided, however, that the Board of Revenue shall have power on sufficient grounds to entertain a petition presented after the expiration of the period of three months.

(4) While determining the rent under sub-section (2), the District Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service on and from the date so fixed.

(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable when such land, assignment or produce is enfranchised or freed, as the case may be, in the manner hereinbefore provided.

(6) No order passed under sub-section (1), (2) or (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land, or assignment of land revenue or produce derived from land, as the case may be.

(7) (a) The quit-rent imposed under sub-section (1) shall be payable to the temple concerned.

(b) The assignment of land revenue enfranchised under sub-section (1), or the rent fixed under sub-sections (2) and (3), as the case may be, shall be payable to the devadasi concerned during her lifetime and, after her death, to the temple concerned.

(8) Where any inam is granted for a service which is auxiliary to the service to be performed by a devadasi in a temple, such inam shall be enfranchised or freed from the condition of service, as if it were a devadasi inam; and the provisions of sub-sections (1) to (7) shall apply accordingly.



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(9) For the purpose of this section, "devadasi" shall mean any Hindu unmarried female, who is dedicated for service in a temple.

**41. Resumption and re-grant of inam granted for performance of any charity or service.**—(1) Any exchange, gift, sale or mortgage and any lease for a term exceeding five years of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity and, made, confirmed or recognized by the Government shall be null and void :

Provided that any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

*Explanation.*—Nothing contained in this sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908).

(2) (a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely :—

(i) that except in the case referred to in the proviso to sub-section (1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance, or

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the kudivaram or only of the melvaram :

Provided that, in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

(b) Before passing an order under clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in possession of the inam where he is not

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the inamdar and to the alienee, if any, of the inam; the Collector shall also published a copy of such notice in such manner as may be prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections, if any, of the persons to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

*Explanation.*—Where only a part of the inam is affected, notice shall be given under this clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alienee, if any, of every such part; and the objections of all such persons shall be heard by the Collector.

(c) A copy of every order passed under clause (a) shall be communicated to each of the persons mentioned in clause (b), and shall also be published in the manner prescribed.

(d) (i) Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal, the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a Civil Court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under sub-clause (i), or from the date of the expiry of the period prescribed under sub-clause (i) for an appeal to the District Collector where there has been no such appeal.

(e) Except as otherwise provided in clause (d), an order of resumption passed under this section shall not be liable to be questioned in any Court of law.

(f) Where any inam or part of any inam is resumed under this section, the Collector or the District Collector, as the case may be, shall by order, re-grant such inam or part—

(i) as an endowment to the religious institution concerned,  
or



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(ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.

(g) The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h) Nothing in this section shall affect the operation of section 40.

**42.** *Office-holders and servants of religious institutions not to be in possession of jewels, etc., except under conditions.*—Notwithstanding anything contained in any scheme settled or deemed to have been settled under this Act or in any decree or order of a Court or any custom or usage to the contrary, no office-holder or servant of a religious institution or other person shall have the right to be in possession of the jewels or other valuables belonging to the religious institutions except, under such conditions and safeguards as the Commissioner may, by general or special order, direct.

**43.** *Commissioner to sanction compromise of legal proceedings.*—No suit, application or appeal pending before a Court to which a religious institution is a party shall be withdrawn or compromised by the trustee of the institution except with the previous sanction of the Commissioner.

#### RELIGIOUS INSTITUTIONS OTHER THAN MATHS, OR SPECIFIC ENDOWMENTS ATTACHED THERETO.

**44.** *Sections 45 to 58 not to apply to Maths or specific endowments attached to maths.*—The provisions of sections 45 to 58 shall not apply to maths or specific endowments attached to maths.

**45.** *Appointment and duties of Executive Officers.*—(1) Notwithstanding anything contained in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an executive officer for any religious institution other than a math or a specific endowment attached to a math.

(2) The executive officer shall exercise such powers and discharge such duties as may be assigned to him by the Commissioner :

Provided that only such powers and duties as appertain to the administration of the properties of the religious institution referred to in sub-section (1) shall be assigned to the executive officer.

(3) The Commissioner may define the powers and duties which may be exercised and discharged respectively by the executive officer and the trustee, if any, of any religious institution other than a math or a specific endowment attached to a math.

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(4) The Commissioner may, for good and sufficient cause suspend, remove or dismiss the executive officer.

**46. Commissioner to publish list of certain institutions.**—The Commissioner shall publish in the prescribed manner a list of the religious institutions whose annual income as calculated for the purposes of the levy of contribution under section 92 is not less than twenty thousand rupees, and may from time to time modify such list in the prescribed manner :

Provided that the Commissioner shall not be bound to remove any institution from such list unless its annual income calculated as aforesaid has fallen below twenty thousand rupees for three consecutive years.

**47. Trustees and their number and term of office.**—(1) Where a religious institution included in the list published under section 46 or in respect of which no Area Committee exercises powers and discharges duties, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him :

Provided that the Commissioner may, pending the constitution of such a Board of Trustees, appoint a fit person to perform the functions of the Board of Trustees.

(2) Where in the case of any institution included in the list published under section 46, having a hereditary trustee or trustees, the Commissioner, after notice to such trustee or trustees and after such inquiry as he deems adequate, considers for reason to be recorded, that the affairs of the institution are not, and are not likely to be, properly managed by the hereditary trustee or trustees, the Commissioner may, by order, appoint such number of non-hereditary trustees as he thinks necessary.

(3) Every trustee appointed under sub-section (1) and subject to the result of an application, if any, filed under sub-section (4), every non-hereditary trustee appointed under sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee.

(4) Where the Commissioner, by order, appoints a non-hereditary trustee or trustees, the hereditary trustee or trustees may, within thirty days of the receipt of the order, file an application to the Court to set aside or modify such order :

Provided that the Court shall have no power to stay the order of the Commissioner pending the disposal of the application.

(5) Where a vacancy arises in the office of a non hereditary trustee appointed under sub-section (2), the Commissioner shall not fill up such vacancy unless for reasons to be recorded, he considers it necessary to do so. A non-hereditary trustee appointed in the vacancy shall be deemed to have been appointed under sub-section (2), and the provisions of sub-sections (3) and (4) shall apply accordingly.



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**48. Chairman.**—(1) In the case of a religious institution for which a Board of Trustees is constituted under sub-section (1) of section 47 the Board of Trustees shall, within such period as may be prescribed, elect one of its members to be its Chairman, and if no Chairman is elected within the period so prescribed the Commissioner shall nominate the Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall, within such period as may be prescribed, elect one from among themselves to be the Chairman, and if no Chairman is elected within the period so prescribed, the Commissioner shall nominate the Chairman:

Provided that in the case of a religious institution—

(i) having one hereditary trustee, such hereditary trustee alone shall be its Chairman; and

(ii) having more than one hereditary trustee, one of such hereditary trustees alone shall be elected or nominated to be its Chairman.

(3) A Chairman elected or nominated under sub-section (1) or sub-section (2) shall hold office for such period as may be prescribed.

**49. Power of Area Committee to appoint trustees.**—(1) In the case of any religious institution which is not included in the list published under section 46 and is not a religious institution notified or deemed to have been notified under Chapter VI of this Act, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in sub-section (1) of section 47:

Provided that the Area Committee may, in the case of any institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of sub-section (3) of section 47 and of section 48 shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Area Committee, as they apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Commissioner.

**50. Power under sections 47 and 49 to be exercisable notwithstanding provision in scheme.**—The power to appoint trustees under section 47 or section 49 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary.

**51. Claims of certain persons to be trustees.**—In making appointments of trustees under section 47 or section 49, the Commissioner or the Area Committee, as the case may be, shall have

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due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly intended or maintained.

**52. Non-hereditary trustees holding office on the date of the commencement of the Act.**—Every non-hereditary trustee lawfully holding office on the date of the commencement of this Act, shall be deemed to have been duly appointed as such trustee under this Act for the residue of his term of office on the date of such commencement.

**53. Power to suspend, remove or dismiss trustees.**—(1) In this section, the expression, “ appropriate authority ” shall, unless the context otherwise requires, means—

(a) in respect of any trustee of a religious institution included in the list published under section 46, the Commissioner;

(b) in respect of a non-hereditary trustee of any religious institution not included in the list published under section 46, the Area Committee; and

(c) in respect of a hereditary trustee of a religious institution included in the list published under section 46, the Deputy Commissioner.

(2) The appropriate authority may suspend, remove, or dismiss any . . . trustee of a religious institution, if he—

(a) ceases to profess the Hindu religion; or

(b) fails to discharge the duties and perform the functions of a trustee in accordance with the provisions of this Act or the rules made thereunder; or

(c) disobeys the lawful orders issued under the provisions of this Act or the rules made thereunder by the Government, the Commissioner, or Deputy Commissioner or the Area Committee or the Assistant Commissioner; or

(d) continuously neglects his duty or commits any malfeasance, misfeasance or breach of trust, in respect of the trust; or

(e) misappropriates or deals improperly with the properties of the institution; or

(f) is of unsound mind or is suffering from other mental defect or infirmity which would render him unfit to perform the functions and discharge the duties of a trustee or is suffering from leprosy or other loathsome disease; or

(g) is sentenced by a criminal court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned; or

(h) is an undischarged insolvent; or

(i) is interested in a subsisting lease of any property of, or contract made with or any work being done for, the religious institution or is in arrears of any kind due by him to the religious institution; or



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(j) acts adversely to the interests of the institution; or

(k) absents himself from three consecutive meetings of the trustees.

*Explanation.*—A meeting adjourned for want of quorum shall be deemed to be a meeting for the purpose of this clause; or

(l) in the case of a Chairman of the Board of Trustees or a Managing or Executive trustee, refuses or delays to, or does not, hand over charge to his successor.

(3) When it is proposed to take action under sub-section (2), the appropriate authority shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor.

(4) Pending the disposal of the charges framed against the trustee, the appropriate authority may place the trustee under suspension and appoint a fit person to discharge the duties and perform the functions of the trustee.

(5) A trustee who is aggrieved by an order passed under sub-section (2), may within one month from the date of the receipt by him of the order of suspension, removal or dismissal, appeal against the order—

(i) where the order has been passed by the Commissioner, to the Government;

(ii) where the order has been passed by the Deputy Commissioner, to the Commissioner; and

(iii) where the order has been passed by the Area Committee, to the Deputy Commissioner.

(6) A hereditary trustee aggrieved by an order passed by the Commissioner or the Government under sub-section (5) may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order.

#### 54. *Filling up of vacancies in the office of hereditary trustee.*—

(1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustees under sub-section (2) of section 53, the next in the line of succession shall be entitled to succeed and perform the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or

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when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for performing the functions of the trustee,

the Deputy Commissioner may appoint a fit person to perform the functions of the trustee of the institutions until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Deputy Commissioner may direct.

*Explanation.*—In making any appointment under this sub-section, the Deputy Commissioner shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person aggrieved by an order of the Deputy Commissioner under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902 (Madras Act I of 1902).

**55. Appointment of office-holders and servants in religious institutions.**—(1) Vacancies, whether permanent or temporary, among the office-holders or servants of a religious institution shall be filled up by the trustee in cases where the office or service is not hereditary.

(2) In cases where the office or service is hereditary, the person next in the line of succession shall be entitled to succeed.

(3) Where, however, there is a dispute respecting the right of succession, or

where such vacancy cannot be filled up immediately, or

where the person entitled to succeed is a minor without a guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

where the person entitled to succeed is a minor without incapacity, illness or otherwise unable to perform the functions of the office or perform the service, or is suspended from his office under sub-section (1) of section 56,

the trustee may appoint a fit person to perform the functions of the office or perform the service, until the disability of the office-holder or servant ceases or another person succeeds to the office or service, as the case may be.



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*Explanation.*—In making any appointment under this sub-section, the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person aggrieved by an order of the trustee under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

**56. Punishment of office-holders and servants in religious institutions.**—(1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee; and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

(2) Any office-holder or servant punished by a trustee under sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

(3) A hereditary office-holder or servant may, within one month from the date of the receipt by him of the order of the Deputy Commissioner under sub-section (2), prefer an appeal to the Commissioner against such order.

**57. Power to fix fees for services, etc., and to determine their apportionment.**—Notwithstanding anything contained in any scheme settled or deemed to have been settled under this Act, or any decree or usage to the contrary, the trustee of a religious institution shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of any service, ritual or ceremony in such religious institution and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders of servants of such religious institution.

**58. Fixing of standard scales of expenditure.**—(1) The trustee of a religious institution shall submit to the Area Committee if the institution is not included in the list published under section 46 and to the Commissioner if the institution is so included, within three months from the date of the commencement of this Act, or the date of the inclusion of the institution in the list aforesaid or within such further time as may be allowed by the Area Committee or the Commissioner, as the case may be, proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects:

Provided that this sub-section shall not apply to any institution in respect of which proposals have been submitted to the Area Committee or the Commissioner, as the case may be, before the date of the commencement of this Act.

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(2) The trustee shall publish such proposals at the premises of the institution and in such other manner as may be required by the Area Committee or the Commissioner, as the case may be, together with a notice stating that, within one month from the date of such publication, any person having interest may submit objections or suggestions to the Area Committee or the Commissioner.

(3) After the expiry of the said period, the Area Committee or the Commissioner shall, after considering any objections and suggestions received, pass such order as it or he may think fit on such proposals; having regard to the established usage of the institution and its financial position; and a copy of the order shall be communicated to the trustee.

The order of the Area Committee or the Commissioner shall be published in the prescribed manner.

(4) Against an order passed by the Area Committee under sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee, appeal to the Deputy Commissioner and if the trustee or such person is aggrieved by the order of the Deputy Commissioner, he may, within one month from the date of the receipt of such order, appeal to the Commissioner.

(5) The trustee shall scrutinize the particulars of *dittam* or scale of expenditure every three years and submit to the Area Committee or the Commissioner as the case may be, proposals for altering the *dittam* or scale of expenditure and the provisions of sub-sections (2), (3) and (4) shall apply in relation to the alteration of such *dittam* or scale of expenditure as they apply in relation to the fixing of *dittam* or scale of expenditure :

Provided that the Area Committee or the Commissioner may, at any time on its or his own motion, for reasons to be recorded in writing, direct the trustee to alter the *dittam* or scale of expenditure and the procedure for such alteration shall be the same as laid down in this section.

#### CHAPTER IV—MATHS.

**59. Suit for removal of trustee of math or specific endowment attached thereto.**—(1) The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner, may institute a suit in the Court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely :—

(a) the trustee being of unsound mind;



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(b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee;

(c) his having ceased to profess the Hindu religion or the tenets of the math;

(d) his conviction for any offence involving moral turpitude;

(e) breach by him of any trust created in respect of any of the properties of the religious institution;

(f) waste of the funds or properties of the institution or the wrongful application of such funds or properties for purposes unconnected with the institution;

(g) the adoption of devices to convert the income of the institution or of the funds or properties thereof into "patha-kanika";

(h) leading an immoral life or otherwise leading a life which is likely to bring the office of head of the math into contempt;

(i) persistent and wilful default by him in discharging his duties or performing his functions under this Act or any other law.

(2) Where the Commissioner refuses to give consent under sub-section (1), the party aggrieved may, within three months from the date of the receipt of the order by him, appeal to the Government who may, after making such inquiry as they may consider necessary, confirm the order of the Commissioner or direct the Commissioner to give his consent in writing.

**60. Arrangements when vacancies occur.**—(1) When a vacancy occurs in the office of the trustee of a math or specific endowment attached to a math and there is a dispute respecting the right of succession to such office, or

when such vacancy cannot be filled up immediately, or

when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to perform the functions of the trustee.

the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be, and shall report the matter forthwith to the Commissioner.

(2) Upon the receipt of such report, if the Commissioner, after making such inquiry as he deems necessary, is satisfied that an arrangement for the administration of the math and its endowments or of the specific endowment, as the case may be, is

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necessary, he shall make such arrangement as he thinks fit until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

(3) In making any such arrangement, the Commissioner shall have due regard to the claims of the disciples of the math, if any.

(4) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902 (Madras Act I of 1902).

**61. Fixing of standard scales of expenditure.**—(1) The trustee of every math or specific endowment attached to a math may, from time to time, submit to the Commissioner proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the math and in such other manner as the Commissioner may direct, together with a notice stating that, within one month from the date of such publication, any person having interest may submit suggestions to the Commissioner.

(3) If on a scrutiny of such proposals, and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Commissioner may call for the remarks of the trustee and if, after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure he shall submit the case to the Government who shall pass orders thereon, and such orders shall be final.

**62. Power to spend Pathakanika.**—(1) The trustee of a math shall keep regular accounts of receipts of "pathakanika" that is to say, any gift of property or money made to him as the head of the math and shall be entitled to spend the said "pathakanika" in accordance with the customs and usages of the institution.

(2) Such gifts of property or money as are not spent by the trustee during his tenure of office in accordance with the customs and usage of the institution shall form part of the funds of the math.

## CHAPTER V—INQUIRIES.

**63. Deputy Commissioner to decide certain disputes and matters.**—Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters:—

(a) whether an institution is a religious institution;



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(b) whether a trustee holds or held office as a hereditary trustee;

(c) whether any property or money is religious endowment;

(d) whether any property or money is a specific endowment;

(e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;

(f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and

(g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.

**64. Power of Deputy Commissioner to settle schemes.**—(1) When the Deputy Commissioner has reason to believe that in the interests of the proper administration of an institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application in writing stating that in the interests of the proper administration of an institution a scheme should be settled for it, the Deputy Commissioner shall consult in the prescribed manner the trustee and the persons having interest and the Area Committee, if any, exercising powers and discharging duties in respect of the institution, and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, settle a scheme of administration for the institution.

*Explanation.*—For the purposes of this section, “institution” means a temple or a specific endowment attached to a temple.

(2) A scheme settled under sub-section (1) for an institution may contain provision for—

(a) removing any existing trustee, whether hereditary or non-hereditary :

Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in succession who is qualified :

(b) appointing a new trustee or trustees in the place of, or in addition to, any existing trustees or trustees;

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(c) defining the powers and duties of the trustee or trustees :

Provided that in making any provision of the nature specified in clause (b) due regard shall be had to the claims of persons belonging to the religious denomination for whose benefit the institution is chiefly intended or maintained.

(3) The Deputy Commissioner may determine what the properties of the institution are and append to the scheme a schedule containing a list of such properties;

(4) Pending the settlement of a scheme for an institution, the Deputy Commissioner may appoint a fit person to perform all or any of the functions of the trustee thereof and define his powers and duties.

(5) (a) The Deputy Commissioner may, at any time, after consulting the trustee and the persons having interest and the Area Committee, if any, exercising powers and discharging duties in respect of the institution, by order, modify or cancel any scheme in force settled under sub-section (1) or any scheme in force settled or modified by the Board under the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), or deemed to have been settled under that Act, or any scheme in force settled or modified by the Deputy Commissioner or the Commissioner under this Act, or any scheme in force settled or modified by the Court in a suit under sub-section (1) of section 70, or on an appeal under sub-section (2) of that section or any such scheme in force deemed to have been settled or modified by the Court under clause (a) of sub-section (2) of section 118 :

Provided that such cancellation or modification of a scheme in force settled or modified by the Court in a suit under sub-section (1) of section 70 or on an appeal under sub-section (2) of that section or of a scheme in force deemed to have been settled or modified by the Court under clause (a) of sub-section (2) of section 118 shall be made only subject to such conditions and restrictions as may be prescribed.

(b) If the Deputy Commissioner is satisfied that any such scheme referred to in clause (a) is inconsistent with this Act and the rules made thereunder, he may, at any time, after consulting the trustee and the persons having interest and the Area Committee, if any, exercising powers and discharging duties in respect of the institution, modify it in such manner as may be necessary to bring it into conformity with the provisions of this Act and the rules made thereunder.

(6) Every order of the Deputy Commissioner settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of sections 69 and 70, be binding on the trustee, the executive officer and all persons having interest.



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**65. Power of Commissioner to settle schemes.**—(1) When the Commissioner has reason to believe that in the interests of the proper administration of a math or a specific endowment attached to a math, a scheme should be settled for the math or the specific endowment attached to a math or when not less than five persons having interest make an application in writing, stating that in the interest of the proper administration of the math or the specific endowment attached to the math a scheme should be settled for it, the Commissioner shall consult in the prescribed manner the trustee and the persons having interest; and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall by order, settled a scheme of administration for the math or the specific endowment attached to the math.

(2) A scheme settled under this section for the administration of a math or a specific endowment attached to a math may contain provision for—

(a) constituting a body for the purpose of assisting in the whole or any part of the administration of the endowments of such math or of the specific endowment.

Provided that the members of such body shall be chosen from persons having interest in such math or endowment;

(b) defining the powers and duties of the trustee.

(3) The Commissioner may determine what the properties of the math or of the specific endowment attached to the math are and append to the scheme a schedule containing a list of such properties.

(4) (a) The Commissioner may, at any time after consulting the trustee, by order, modify or cancel any scheme in respect of a math or a specific endowment attached to a math and in force and settled under sub-section (1) or any scheme in force settled or modified by the Board under the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), or deemed to have been settled under that Act or any scheme in force settled or modified by the Commissioner under this Act or any scheme in force settled or modified by the Court in a suit under sub-section (1) of section 70 or on an appeal under sub-section (2) of that section or any such scheme in force deemed to have been settled or modified by the Court under clause (a) of sub-section (2) of section 118 :

Provided that such cancellation or modification of a scheme in force settled or modified by the Court in a suit under sub-section (1) of section 70 or on an appeal under sub-section (2) of that section or of a scheme in force deemed to have been settled or modified by the Court under clause (a) of sub-section (2) of section 118 shall be made only subject to such conditions and restrictions as may be prescribed.

(b) If the Commissioner is satisfied that any such scheme referred to in clause (a) is inconsistent with this Act and the rules

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made thereunder he may at any time, modify it in such manner as may be necessary to bring it into conformity with the provisions of this Act and the rules made thereunder.

(5) Every order of the Commissioner settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of sections 69 and 70 be binding on the trustee the executive officer and all persons having interest.

**66. Appropriation of endowments.**—(1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:—

(a) the grant of aid to any other religious institution which is poor or in needy circumstances. . . . ;

(b) the grant of aid to any religious purposes connected with the Hindu religion. . . . ;

(c) the propagation of the religious tenets of the institution;

(d) the recitation of Divya Prabandham and Thevaram and the like;

(e) the establishment and maintenance of schools for the training of archakas, adyapakas, vedaparayanikas and othuvams and for the study of Divya Prabandhams, Thevarams and the like including the study of Indian languages for that purpose;

(f) the establishment and maintenance of a university or college or other institution in which the main features shall be the provision for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;

(g) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also provided;

(h) promotion. . . . of fine arts and architecture;

(i) the establishment and maintenance of orphanages for Hindu Children;

(j) the establishment and maintenance of asylums for persons suffering from leprosy;

(k) the establishment and maintenance of poor homes for destitute helpless and physically disabled persons. . . . ; and

(l) the establishment and maintenance of hospitals and dispensaries for the benefit of pilgrims :

Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof, the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.



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(2) The Deputy Commissioner, may, at any time by order, modify or cancel any order passed under sub-section (1).

(3) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 69, be binding on the trustee, the executive officer and all persons having interest.

**67. Determination and application of properties and funds of defunct religious institutions.**—(1) The Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the date of the commencement of this Act, ceased to exist, hold an inquiry in the prescribed manner to ascertain its properties and funds; and after doing so, shall pass an order—

(a) specifying the properties and funds of the institution;

(b) appointing a trustee therefor;

(c) directing the recovery of any such properties or funds from any person who may be in possession thereof; and

(d) laying down that the properties and funds so specified shall be applied or utilised for renovating the institution or if such renovation is not possible, be appropriated to any one or more of the purposes specified in sub-section (1) of section 66.

(2) The Deputy Commissioner may, on being satisfied after holding an enquiry in the prescribed manner, that any building or other place which was being used for religious worship or instruction has, whether before or after the date of the commencement of this Act, ceased to be used for that purpose, pass an order—

(a) directing the recovery of such building or place from any person who may be in possession thereof; and

(b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible, be utilised for any one or more of the purposes specified in sub-section (1) of section 66.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to authorize the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the 30th September 1951 by the operation of the law of limitation.

(4) Every order of the Deputy Commissioner under sub-section (1) or sub-section (2) shall be published in the prescribed manner.

**68. Deputy Commissioner to forward copies.**—The Deputy Commissioner shall, within a week from the date of his order made under any of the foregoing sections of this Chapter, forward a copy of such order to the Commissioner.

**69. Appeal to the Commissioner.**—(1) Any person aggrieved by any order passed by the Deputy Commissioner under any of the foregoing sections of this Chapter may, within sixty days from

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the date of the publication of the order or of the receipt thereof by him, as the case may be, appeal to the Commissioner and the Commissioner may pass such order thereon as he thinks fit.

(2) Any order passed by the Deputy Commissioner in respect of which no appeal has been preferred within the period specified in sub-section (1) may be revised by the Commissioner *suo motu* and the Commissioner may call for and examine the records of the proceedings to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed by the Deputy Commissioner. Any such order passed by the Commissioner in respect of an order passed by the Deputy Commissioner shall be deemed to have been passed by the Commissioner on an appeal preferred to him under sub-section (1).

(3) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding section, or in which no suit has been instituted in the Court within the time specified in sub-section (1) of section 70 may be modified or cancelled by the Commissioner if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matters specified in section 66.

**70. Suits and appeals.**—(1) Any party aggrieved by an order passed by the Commissioner—

(i) under sub-section (1) or sub-section (2) of section 69, and relating to any of the matters specified in section 63, section 64 or section 67; or

(ii) under section 63, section 64, or section 67 read with sub-section (1) (a), (2) or (4) (a) of section 22 or under section 65; may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order and the Court may modify or cancel such order, but it shall have no power to stay the order of the Commissioner pending the disposal of the suit.

(2) Any party aggrieved by a decree of the Court under sub-section (1) may, within ninety days from the date of the decree, appeal to the High Court.

## CHAPTER VI—NOTIFIED RELIGIOUS INSTITUTIONS

**71. Issue of notice to show cause why institution should not be notified.**—(1) Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this Chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.



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(2) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue of the notice for showing such cause.

(3) The trustee or any person having interest may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.

(4) Such objection shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Commissioner.

**72. Consideration of objections, if any, and notification of institution.**—(1) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification, declare the religious institution to be subject to the provisions of this Chapter.

(2) Where any such objections have been received within the time so specified or granted, the Commissioner shall hold an inquiry into the objections in the manner prescribed, and decide whether the institution should be notified to be subject to the provisions of this Chapter or not.

(3) If the Commissioner decides that the institution should be notified as aforesaid, he shall make a report to that effect to the Government who may thereupon, by notification, declare the religious institution to be subject to the provisions of this Chapter.

(4) Any trustee or any person having an interest, who is aggrieved by a notification published under sub-section (1) or sub-section (3), may, within thirty days from the date of its publication, institute a suit in the Court for the cancellation of such notification and the Government shall cancel the notification if the Court so directs :

Provided that the Court shall have no power to suspend the operation of the notification pending the disposal of the suit.

(5) Any party aggrieved by a decree of the Court under sub-section (4), may, within ninety days from the date of the decree, appeal to the High Court.

(6) Notwithstanding anything contained in sub-sections (4) and (5), if the Government are satisfied at any time after the publication of a notification under sub-section (1) or sub-section (3) that the religious institution is no longer being mismanaged, they may cancel the notification.

(7) Any notification published under sub-section (1) or sub-section (3) of section 64 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), before the date of the commencement of this Act shall be as valid as if such notification had been published under this Act :

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Provided that if on the date of the commencement of this Act a period of thirty days has lapsed from the date of publication of a notification under section 64 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), no suit shall be instituted under sub-section (4) of this section :

Provided further that if, on the date of the commencement of this Act, a period of thirty days has not lapsed from the date of publication of the notification under section 64 of the said Act, the date of publication of such notification for the purposes of sub-section (4) of this section shall be the date of publication of that notification under the said Act.

**73. Scheme to lapse on notification.**—On the publication of the notification, the scheme of administration, if any, settled for the religious institution, whether before or after the date of the commencement of this Act, and all rules, if any, framed under such a scheme shall cease to apply to the institution and shall become inoperative; and such scheme and rules shall not be revived by reason of the cancellation of the notification under sub-section (6) of section 72.

**74. Appointment of salaried executive officer.**—For every institution notified under this Chapter, the Commissioner shall, as soon as may be, appoint a salaried executive officer, who shall be a person professing the Hindu religion.

**75. Section 64 not to apply to notified institutions.**—(1) Section 64 shall not apply to, and no Area Committee shall exercise powers and discharge duties in respect of any religious institution notified under this Chapter or under Chapter VI of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), or under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), so long as the notification remains in force.

(2) Nothing in sub-section (1) shall be construed as prohibiting the settlement of a scheme under section 64 during the period when a notification is in force, to take effect immediately on the notification ceasing to be in force.

**76. Saving.**—Nothing in this Chapter shall apply to maths or other religious institutions having hereditary trustees who have a beneficial interest in the income of the institution.

## CHAPTER VII—ENCROACHMENTS.

**77. Transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases.**—(1) Notwithstanding anything contained in section 34, no trustee of a religious institution shall lease or mortgage with possession or grant a licence for the occupation of—

(a) any land belonging to the religious institutions which is appurtenant to or adjoins the religious institution, or any sacred



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tank, well, spring or water-course, appurtenant to the religious institution whether situated within or outside the precincts thereof, or

(b) any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution :

Provided that nothing contained in this sub-section shall apply to the leasing or licensing of any such land or space for the purpose of providing amenities to pilgrims or of vending flowers or other articles used for worship or of holding for specified periods, fairs or exhibitions during festivals connected with the religious institution.

(2) Any lease or mortgage with possession or licence in contravention of the provisions of sub-section (1) shall be null and void.

(3) Notwithstanding anything contained in sub-section (1) or (2), the Commissioner may sanction the lease or mortgage with possession or granting of a licence for the occupation of any such land or space as is mentioned in sub-section (1) and situated outside the precincts of a religious institution for any purpose other than a purpose mentioned in the proviso to sub-section (1).

**78. Encroachments by persons on lands or buildings belonging to religious institutions.**—(1) Where the Assistant Commissioner having jurisdiction over the area in which the religious institution is situated has reason to believe that any person has encroached upon any land or building belonging to the religious institution which is appurtenant to or adjoins the religious institution, or any sacred tank, well, spring or water-course, appurtenant to the religious institution, whether situated within or outside the precincts thereof, or any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution (hereinafter in this Act referred to as the encroacher), the Assistant Commissioner shall report the fact together with relevant particulars to the Deputy Commissioner having jurisdiction over the area in which the religious institution is situated.

(2) On being satisfied that there has been an encroachment, the Deputy Commissioner may cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before a date specified in the notice should not be made. A copy of the notice shall also be sent to the trustee of the religious institution concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) After considering the objections, if any, of the encroacher and the trustee received within the period specified in the notice referred to in sub-section (2), the Deputy Commissioner may, by order, if he decides that there has been an encroachment, require

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the encroacher to remove the encroachment and deliver possession of the land or building encroached upon to the trustee before a date specified in the order.

(5) The order of the Deputy Commissioner shall be in writing and shall contain the grounds on which he has passed the order.

**79. Appeals against orders of Deputy Commissioner under section 78.**—(1) Any person aggrieved by an order passed by the Deputy Commissioner under section 78 may, within thirty days from the date of the receipt by him of such order, prefer an appeal in writing to the Commissioner.

(2) On such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.

(3) The Commissioner shall call for the records of the case from the Deputy Commissioner and after giving notice in the manner prescribed to the appellant and the trustee of the religious institution, and if necessary, after making such further inquiry as he thinks fit, decide the appeal.

(4) The decision of the Commissioner and subject to such decision, an order of the Deputy Commissioner shall be final and shall be conclusive evidence of the encroachment :

Provided that nothing in this section shall prevent the encroacher from instituting a suit in the Civil Court having jurisdiction that the religious institution has no title to the land or building.

(5) Where no appeal against an order of the Deputy Commissioner has been preferred under sub-section (1) or where an appeal has been preferred and dismissed, the Assistant Commissioner may remove the encroachment and obtain possession of the land or buildings encroached upon. Any Police Officer whose help is required for this purpose shall be bound to render the necessary help to the Assistant Commissioner.

**80. Eviction of lessees, licensees or mortgagees with possession in certain cases.**—(1) Where the Assistant Commissioner having jurisdiction over the area in which the religious institution is situated is of the view that the lessee, licensee or mortgagee with possession of any land belonging to the religious institution, which is appurtenant to or adjoins the religious institution or any sacred tank, well, spring or water-course, appurtenant to the religious institution, whether situated within or outside the precincts thereof or any space within or outside the prakarams, mantapams, court-yards or corridors of the religious institutions, has taken any action which has marred or is likely to mar the artistic appearance or the religious atmosphere of the religious institution, the Assistant Commissioner shall report the fact together with relevant particulars to the Deputy Commissioner having jurisdiction over the area in which the religious institution is situated.



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(2) The Deputy Commissioner, if satisfied that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee, or mortgagee with possession shall cause to be served on the lessee, licensee or mortgagee concerned a notice calling on him to show cause before a certain date why an order terminating the lease or licence or cancelling the mortgage and requiring the lessee, licensee or mortgagee, as the case may be, to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee before a date specified in the notice should not be made. A copy of the notice shall also be sent to the trustee of the religious institution concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) After considering the objections, if any, of the lessee, licensee or mortgagee, received within the period specified in the notice referred to in sub-section (2), the Deputy Commissioner may, if he decides that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee, by order, terminate the lease or licence or cancel the mortgage and require the lessee, licensee or mortgagee to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee, before a date specified in the order.

(5) The order of the Deputy Commissioner shall be in writing and shall contain the grounds on which he has passed the order.

**81. Appeals against orders of Deputy Commissioner under section 80.**—(1) Any person aggrieved by an order passed by the Deputy Commissioner under section 80 may, within thirty days from the date of the receipt by him of such order, prefer an appeal in writing to the Commissioner.

(2) On such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.

(3) The Commissioner shall call for the records of the case from the Deputy Commissioner and after giving notice in the manner prescribed to the appellant and the trustee of the religious institution and if necessary after making such further inquiry as he thinks fit, shall decide the appeal.

(4) The decision of the Commissioner and subject to such decision, an order of the Deputy Commissioner shall be final and shall be conclusive evidence that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred.

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(5) Where no appeal against an order of the Deputy Commissioner has been preferred under sub-section (1) or where such an appeal has been preferred and dismissed, the Assistant Commissioner may enter into possession of the land after a specified date and the trustee of the religious institution shall forthwith take steps for restoring the artistic appearance or religious atmosphere of the religious institution. Any Police Officer whose help is required by the Assistant Commissioner for obtaining possession of the land shall be bound to render the necessary help.

**82. Payment of compensation.**—(1) Where, in pursuance of any order passed under the foregoing provisions of this Chapter, any lessee, licensee or mortgagee with possession loses possession of any land, there shall be paid compensation, the amount of which shall be determined by the Tribunal constituted under section 83 in the manner, and in accordance with the principles hereinafter set out, that is to say—

(a) at the commencement of the proceedings before the Tribunal, the trustee of the religious institution and the person to be compensated shall state what in their respective opinion is a fair amount of compensation.

(b) The Tribunal in making its award shall have regard to the nature of the property, the use to which it has been put, the rent, fee or other income payable in accordance with the terms of the lease, licence or mortgage, as the case may be.

(c) The compensation awarded by the Tribunal shall not exceed the amount, if any, payable by the lessee or licensee for the unexpired period of the lease or licence and in the case of a mortgage, the amount secured by the mortgage together with the interest due thereon.

(2) The compensation awarded by the Tribunal shall be payable out of the funds of the religious institution after the trustee obtains the permission of the Deputy Commissioner in accordance with the provisions of this Act.

(3) Save as provided in this section and in any rules made under this Act, nothing contained in any law for the time being in force shall apply to awards under this section.

**83. Constitution of Tribunals.**—(1) The Government shall constitute as many Tribunals as may be necessary for the purposes of this Chapter.

(2) Each Tribunal shall consist of such number of members not exceeding three as may be determined by the Government, and if the number of such members is more than one, one of them shall be appointed as the Chairman by the Government.

(3) Each Tribunal shall have such jurisdiction and over such area as the Government may, by notification, from time to time determine.



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(4) The qualification to be possessed by persons for appointment as members of a Tribunal and the conditions of service of such members shall be such as may be prescribed.

(5) Every Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit.

(6) If for any reason a vacancy (other than a temporary absence) occurs in the office of the Chairman of any Tribunal or any other member of any Tribunal, then the Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(7) No act or proceeding before any Tribunal shall be called in question in any manner on the ground merely of the existence of any vacancy in or defect in the constitution of, such Tribunal.

**84. Suits against award.**—Any party aggrieved by an award of the Tribunal under section 82 may, within ninety days from the date of the receipt of the award by him, institute a suit in the Civil Court having jurisdiction over the area in which the religious institution is situated.

**85. Protection of action taken under this Chapter.**—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of the provisions of this Chapter or any order made in pursuance of any of those provisions.

(2) No suit or other legal proceeding shall lie against the Tribunal, Commissioner, Deputy Commissioner or Assistant Commissioner for any damage caused or likely to be caused by anything, in good faith, done or intended to be done in pursuance of the provisions of this Chapter or any order made in pursuance of any of those provisions.

## CHAPTER VIII—BUDGETS, ACCOUNTS AND AUDIT.

**86. Budgets of religious institutions.**—(1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be specified by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year:—

(a) to the Commissioner in the case of maths and specific endowments attached to maths;

(b) to the Deputy Commissioner in the case of institutions included in the list published under section 46;

(c) to the Area Committee through the Assistant Commissioner in the case of other institutions;

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(2) Every such budget shall make adequate provision for—

(a) the due maintenance of the objects of the institution and the proper performance of the services therein;

(b) the due discharge of liabilities of loans binding on the institution;

(c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than twenty-five per centum of the surplus in the income of the institution for the year;

(d) the contribution to the reserve fund of the institution at such per centum of the income as the Commissioner may fix;

(e) the maintenance of a working balance.

(3) The Commissioner, Deputy Commissioner or Area Committee, as the case may be, may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions, or additions, in the budget as he or it may deem fit.

(4) Any trustee may, within one month from the date of the receipt by him of the order under sub-section (3), appeal against that order—

(a) where the order has been made by the Area Committee, to the Deputy Commissioner;

(b) where the order has been made by the Deputy Commissioner, to the Commissioner;

(c) where the order has been made by the Commissioner, to the Government.

(5) If, in the course of a fasli year, the trustee finds it necessary to modify the provisions made in the budget in regard to the receipts or to the distribution of the amounts to be expended under the different heads, he may submit to the Commissioner, Deputy Commissioner, or Area Committee, through the Assistant Commissioner, as the case may be, his supplemental or revised budget, provided that no alteration shall be made in the amount allotted for discharge of liabilities and loans or in the working balance, and the Commissioner, Deputy Commissioner, or Area Committee, as the case may be, may make such alterations, omissions or additions as provided in sub-section (3).

(6) The trustee shall, within two months after the close of each fasli year, submit to the Commissioner, Deputy Commissioner or Area Committee, through the Assistant Commissioner, as the case may be, in such form as may be fixed by the Commissioner, a statement of actual receipts and disbursements relating to that fasli year, with particulars of expenditure, if any, incurred without sanction and explaining the necessity therefor or the urgency thereof. The Commissioner, Deputy Commissioner or Area Committee, as the case may be, may, after considering the explanation of the trustee, approve and ratify such expenditure, if such expenditure was beneficial or necessary to the institution.



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**87. Accounts and Audit.**—(1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements. Such accounts shall be kept for each fasli year separately and in such form and shall contain such particulars as may be specified by the Commissioner.

(2) The accounts of every religious institution shall be audited by auditors appointed in the prescribed manner and such auditors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(3) The accounts of every religious institution, the annual income of which as calculated for the purposes of section 92 for the fasli year immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say, the audit shall take place as and when the expenditure is incurred. The accounts of every other religious institution, the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, shall be audited annually, or if the Commissioner so directs in any case or class of cases at shorter intervals.

(4) The accounts of any other religious institution, the annual income of which calculated as aforesaid for the fasli year immediately preceding is more than two hundred rupees but less than one thousand rupees shall be audited departmentally and no fee shall be levied therefor.

(5) The accounts of any other religious institution shall also be audited, if the Commissioner so directs, whenever in his opinion such an audit is necessary. The cost of such audit shall be payable by the institution concerned and such cost shall not exceed the rate determined by the Commissioner under sub-section (2) of section 92 and it shall be notified and recovered in the same manner as prescribed in section 94.

(6) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to produce before the auditors, all accounts, records, correspondence, plans and other documents and property and moneys relating to the institution to furnish them with such information as may be required, and to afford them all such assistance and facilities as may be necessary or reasonable and as may be required in regard to the audit of the accounts of the institution.

**88. Authority to whom Audit Report is to be submitted.**—After completing the audit for any fasli year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report—

(a) to the Commissioner in respect of maths and specific endowments attached to maths;

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(b) to the Deputy Commissioner in respect of institutions included in the list published under section 46; and

(c) to the Assistant Commissioner in respect of other institutions.

**89. Contents of Audit Report.**—(1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys due or other property belonging to the religious institution or of loss or of waste of money or other property thereof, caused by neglect or misconduct or misapplication or collusion or fraudulent transactions or breach of trust on the part of the trustee or any other person.

(2) The auditor shall also report on such other matter relating to the accounts as may be prescribed, or on which the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, may require him to report.

**90. Rectification of defects disclosed in audit and order of surcharge against trustee, etc.**—(1) The Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be.

(2) If, on a consideration of the audit report and the report of the trustee and after such inquiry as may be necessary, the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, thinks that the trustee or any other person was guilty of irregular, illegal or improper expenditure, or of loss or waste of money or other property thereof caused by failure to recover moneys due or other property belonging to the religious institution or by neglect or misconduct or misapplication or collusion or fraudulent transactions or breach of trust, the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, may after giving notice to the trustee or such person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order certify the amount so spent or the amount or value of the property so lost or wasted, and direct the trustee or such person to pay within a specified time such amount or value personally :

Provided that if, in respect of any expenditure or dealing with the property of the institution, the trustee or such person had obtained the directions of the Commissioner, Deputy Commissioner, or Assistant Commissioner, as the case may be, and had acted in accordance with such directions, he shall not be held liable.

(3) The Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, shall forward a copy of the order under sub-section (2) with the reasons for the same by registered post to the trustee or person concerned.



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(4) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either—

(a) apply to the court to modify or set aside the order, and the court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in lieu of such application, may appeal to the Government who shall pass such orders as they think fit.

(5) Neither the court, nor the Government to which or to whom an application or appeal is made under sub-section (4) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(6) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(7) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by the Commissioner, recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.

(8) Where the Commissioner is satisfied that the trustee or other person with intent to defeat or delay the execution of any order that may be made under sub-section (2) or sub-section (4)—

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Commissioner, the Commissioner may, unless adequate security is furnished, apply to the court pending the decision of the court or Government for conditional attachment of the said property or such part thereof, as he thinks necessary.

**91.** *Chapter to apply notwithstanding provision in scheme.*—The provisions of this chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to have been settled under this Act.

## CHAPTER IX—FINANCE.

**92.** *Religious institutions to pay an annual contribution to the Government.*—(1) Every religious institution shall, from the income derived by it, pay to the Commissioner annually such contribution not exceeding seven per centum of its income as may be prescribed . . . in respect of the services rendered by the Government and their officers and for defraying the expenses incurred on account of such services.

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(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees, shall pay to the Commissioner annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.

(3) The annual payments referred to in sub-sections (1) and (2) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to have been settled under this Act for the religious institution concerned.

(4) The Government shall pay the expenses incurred for the purposes of this Act, including the—

(i) expenses of Area Committees,

(ii) expenses of Consultative Committees and sub-committees thereof, constituted by the Government or by any officer or authority subordinate to the Government and specially authorized by them in this behalf,

(iii) cost of the publication of journals, books, annuals and descriptive accounts relating to religious institutions.

**93.** *Recovery of costs and expenses incurred on legal proceedings.*—Notwithstanding anything contained in sub-section (1) of section 102, all costs, charges and expenses incurred by the Government, the Commissioner, a Deputy Commissioner, an Area Committee, or an Assistant Commissioner as a party to, or in connexion with, any legal proceeding in respect of any religious institution shall be payable out of the funds of such institution, except in cases where a liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this section has been negatived in express terms.

**94.** *Assessment and recovery of contributions, costs, charges and expenses.*—(1) The contributions, costs, charges and expenses payable under sections 92 and 93 shall be assessed on and notified to the trustee of the religious institution concerned in the prescribed manner :

Provided that if for any reason any portion of the contribution, costs, charges and expenses has escaped assessment, the Commissioner may, within the prescribed period, serve on the trustee a notice assessing him to the portion of the contribution, costs, charges or expenses, as the case may be, due and demanding payment thereof within fifteen days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if the assessment was made in the first instance.

(2) (a) Such trustee may, within fifteen days from the date of the receipt of the notice under sub-section (1) or under the proviso thereto or within such further time as may be granted by the Commissioner, prefer his objection thereto, if any, to the Commissioner



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in writing. Such objection may relate either to his liability to pay or to the amount specified in the notice. The Commissioner shall consider such objection and give his decision confirming, withdrawing or modifying his original notice.

(b) Within one month from the date of the receipt of the notice of assessment, or when objection has been preferred, within one month from the date of the decision of the Commissioner, or within such further time as may be granted by him, such trustee shall pay the amount specified in the notice under sub-section (1) or under the proviso thereto or the amount as fixed by the Commissioner on objection.

(3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the religious institution is situated shall, on requisition made to him in the prescribed manner by the Commissioner and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue.

(4) (a) On receipt of a requisition under sub-section (3), the Collector shall issue a notice to the trustee concerned—

(i) requiring him, within fifteen days from the date of the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and

(ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue.

(b) If, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice (with the charges of collection) as if it were an arrear of land revenue.

(5) The Collector shall, on receipt of a requisition under sub-section (3), withhold the amount mentioned therein out of the tasdik or any other allowance or amount payable by the Government to the religious institution concerned but where the tasdik or other allowance or amount is insufficient for the purpose, the Collector shall withhold the tasdik or other allowance or amount available and recover the balance as if it were an arrear of land revenue.

(6) Places of worship, including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of sub-sections (3), (4) and (5).

(7) Instead of selling the property after attachment thereof under the provisions of the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), it shall be open to the Collector at the instance of the Commissioner to appoint a Receiver to take possession of the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be

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recovered is realized. The remuneration, if any, paid to the Receiver, and the other expenses incurred by him shall be paid out of the income of the institution concerned.

(8) No suit, prosecution or other legal proceeding shall be entertained in any Court of law against the Government or any officer or servant of the Government for anything done or intended to be done in good faith in pursuance of this section.

**95. Contribution not to be levied in certain cases.**—It shall not be competent for the Commissioner to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under section 94.

## CHAPTER X—ENDOWMENTS ADMINISTRATION FUND.

**96. Religious and Charitable Endowments Administration Fund.**—(1) There shall be established a Fund to be called the Madras Hindu Religious and Charitable Endowments Administration Fund. The Fund shall vest in the Commissioner.

(2) The assets which devolved on the Government under section 101 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), the sums which may be transferred to the Commissioner by the Government, the sums due to the Government under the said Act, the contributions payable under sub-section (1) of section 92 and the further sums payable under sub-section (2) of section 92 shall, when realized, be credited to the said Fund. It shall be lawful for the Commissioner to accept to the credit of the said Fund grants or loans from the Government and grants from any private person. The Commissioner shall, out of the said Fund, repay to the Government sums paid by the Government under . . . sub-section (4) of section 92 and loans received from the Government.

**97. Creation of Hindu Religious and Charitable Endowments documents.**—Notwithstanding anything containing in any Act, or to create a Fund to be called the Hindu Religious and Charitable Endowments Common Good Fund out of the contributions voluntarily made by the religious institutions from their surplus funds or by any person for the renovation and preservation of needy temples and their buildings and paintings and for the promotion and propagation of tenets common to all or any class of religious institutions.

(2) The said Fund shall be vested in, and administered by, the Commissioner in such manner as may be prescribed.

## CHAPTER XI—MISCELLANEOUS.

**98. Public officers to furnish copies of or extracts from certain documents.**—Notwithstanding anything containing in any Act, or rule having the force of law, all public officers having custody of



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any record, register, report or other document relating to a religious institution or any movable or immovable property of such institution, shall furnish such copies of or extracts from the same as may be required by the Commissioner, Deputy Commissioner, Area Committee or Assistant Commissioner.

**99. Power to inspect.**—The Commissioner, a Deputy Commissioner or an Assistant Commissioner shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times, to inspect in any public office any record, register or other document, relating to a religious institution, or any movable or immovable property of such institution.

**100. Bequest under will for benefit of religious institution.**—

(1) Where under any will, a bequest has been made in favour of a religious institution or where such bequest itself creates a religious institution, it shall be the duty of the executor under the will to forward a copy thereof to the Deputy or Assistant Commissioner of the division, where such will may have been or is required to be, registered.

(2) No probate of any such will or letters of administration with such will annexed shall be granted by any Court unless it is satisfied that a copy of such will has been forwarded to the Deputy or Assistant Commissioner as provided by sub-section (1).

**101. Putting Trustee or Executive Officer in possession.**—

(1) Where a person has been appointed—

(a) as trustee or executive officer of a religious institution, or

(b) to discharge the functions of a trustee of a religious institution in accordance with the provisions of this Act, . . . in any scheme framed by the Board before the 30th September 1951, and such person is resisted in, or prevented from, obtaining possession of religious institution or of the records, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, office-holder or servant, any Presidency Magistrate or any Magistrate of the first class in whose jurisdiction such institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by the Commissioner in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof, as the case may be :

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Provided however that before issuing any such certificate in respect of any property the Commissioner shall give notice to the trustee, office-holder or servant of the religious institution, as the case may be, of his intention to issue the certificate and consider the objections, if any, of such trustee, office-holder or servant :

Provided further that for the purpose of proceedings under this sub-section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution :

Provided also that nothing contained in this sub-section shall bar the institution of a suit by any person aggrieved by an order under this sub-section for establishing his title to the said property.

*Explanation.*—A person claiming under an alienation contrary to the provisions of section 34 or 41 shall not be regarded as a person claiming in good faith within the meaning of this sub-section.

(2) The Presidency Magistrate or the Magistrate of the first class referred to in sub-section (1) may, pending disposal of an application for directing delivery to the person appointed of the possession of the properties mentioned in the certificate by the Commissioner, appoint a Receiver to take possession of such properties or such portion thereof as may be necessary. The remuneration, if any, paid to the Receiver and other expenses incurred by him shall be paid out of the income of the religious institution concerned.

**102.** *Cost of proceedings, etc.*—(1) The costs, charges and expenses of and incidental to any suit, appeal or application to a Court under this Act shall be in the discretion of the Court, which may, subject to the provisions of section 93 direct the whole or any part of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

(2) The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Commissioner or a Deputy Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and the order passed in this regard may be transferred for execution to the Court and shall be executed by the Court as if the order had been passed by itself if and in so far as the Court considers the order to be a reasonable one.

**103.** *Trustee not to lend or borrow moneys without sanction.*—No trustee shall either lend moneys of, or borrow moneys for the purpose of, or on behalf of, the religious institution of which he is the trustee except with the sanction of such authority and subject to such conditions and limitations as may be prescribed.



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*Explanation.*—For the purposes of this section, trustee includes the executive officer or other person in whom the administration of a religious institution is vested.

**104.** *Court-fees to be paid as prescribed by schedule.*—Notwithstanding anything contained in the Madras Court-fees and Suits Valuation Act, 1955 (Madras Act XIV of 1955), the proper fees for the documents described in columns (1) and (2) of the schedule shall be the fees indicated in column (3) thereof.

**105.** *Saving.*—Nothing contained in this Act shall—

(a) save as otherwise expressly provided in this Act or the rules made thereunder, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or

(b) authorize any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service.

**106.** *Removal of discrimination in the distribution of prasadam or theerthams.*—Notwithstanding anything in this Act or in any text, rule or interpretation of Hindu law, or any custom or usage as part of that law or in any other law or in any decree of Court, there shall be no discrimination in the distribution of any *prasadam* or *theertham* in any religious institution on grounds only of . . . caste, sex, place of birth or any of them.

*Explanation.*—In this section—

(a) “*Prasadam*” means any cooked rice . . . or other eatable, any fruit, flower, leaf, vibuthi, kumkumam, tulsi, vilvam, turmeric, sandalpaste and includes such other thing as the Government may, by notification specify.

(b) “*Theertham*” means sacred water, jaggery water or milk and includes such other liquid as the Government may, by notification specify.

**107.** *Act not to affect rights under Article 26 . . . of the Constitution.*—Nothing contained in this Act shall, save as otherwise provided in section 106 and in clause (2) of Article 25 of the constitution, be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by . . . Article 26 of the Constitution.

**108.** *Bar of suits in respect of administration or management of religious institutions, etc.*—No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding

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which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

**109. Property of religious institution not to vest under the law of limitation after the 30th September 1951.**—Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the 30th September 1951.

**110. Procedure and powers at inquiries under Chapters V and VI.**—(1) Where a Commissioner or a Deputy Commissioner makes an inquiry or hears an appeal under Chapter V or Chapter VI, the inquiry shall be made and the appeal shall be heard, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act V of 1908) to the trial of suits or the hearing of appeals, as the case may be.

(2) The provisions of the Indian Evidence Act, 1872 (Central Act I of 1872), and the Indian Oaths Act, 1873 (Central Act X of 1873), shall apply to such inquiries and appeals.

(3) The Commissioner or a Deputy Commissioner, holding such an inquiry or hearing such an appeal shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (Central Act XVIII of 1850).

**111. Notifications, Orders, etc., under Act not to be questioned in Court of Law.**—Save as otherwise expressly provided in this Act, no notification or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Government, the Commissioner or a Deputy Commissioner, an Area Committee, or an Assistant Commissioner, shall be liable to be questioned in any Court of Law.

**112. . . . . Audit report, etc., to be submitted to Area Committee through Assistant Commissioner.**—Any . . . . . audit report, accounts, returns, reports or other documents and any information required to be submitted to, or called for by, an Area Committee in respect of an institution in respect of which the Area Committee exercises powers and discharges duties and all communications intended for an Area Committee shall be sent to the Assistant Commissioner concerned and shall be placed by him before the Committee at its next meeting, together with his remarks or recommendation thereon, if any.

**113. Power of Assistant Commissioner to act for Area Committee in an emergency.**—The Assistant Commissioner may, in cases of emergency or in cases where he is satisfied that the Area Committee has failed or omitted to discharge any of its duties or to perform any of its functions under this Act, do or direct the



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doing of any act, which would ordinarily have to be done by the Area Committee if the immediate doing of such act is, in his opinion, necessary in the interests of a religious institution :

Provided that any action taken or direction issued by the Assistant Commissioner shall not be inconsistent with any of the provisions of this Act :

Provided further that the Assistant Commissioner shall report the action taken or direction issued under this section and the reasons therefor to the Commissioner.

**114. Power of Government to call for records and pass orders.—**

(1) The Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal or application to a Court or an appeal to the Government is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein; and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly :

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under subsection (1) in respect thereof.

(3) No application to the Government for the exercise of their power under this section shall be made in respect of any matter unless an application had already been made in respect of the same matter to the Commissioner under section 21 and had been disposed of by him.

(4) Every application to the Government for the exercise of their power under this section shall be preferred within three months from the date on which the order or proceeding to which the application relates was communicated to the applicant.

**115. Limitation.—**In computing the period of limitation prescribed under this Act for any proceeding, suit, appeal or application for revision against any order or decree passed under this Act, the time requisite for obtaining a certified copy of such order or decree shall be excluded.

*Explanation.*—For the purposes of this section, order includes any annexure to such order.

**116. Power to make rules.—**(1) The Government may, by notification, make rules to carry out the purposes of this Act.

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(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(i) all matters expressly required or allowed by this Act to be prescribed;

(ii) the form and manner in which applications and appeals should be submitted to the Government, the Commissioner, or a Deputy or an Assistant Commissioner;

(iii) the powers of the Government, the Commissioner, or a Deputy or an Assistant Commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(iv) the inspection of documents and the fees to be levied for such inspection;

(v) the fees to be levied for the issue and service of processes and notices;

(vi) the grant of certified copies and the fees to be levied therefor;

(vii) the budgets, reports, accounts, returns or other information to be submitted by trustees;

(viii) the convening of meetings of trustees and the quorum for and the conduct of business at, such meetings;

(ix) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;

(x) the proper collection of the income of, and the incurring of expenditure by, religious institutions;

(xi) the custody of the moneys of religious institutions, their deposit in, and withdrawal from, banks, and the investment of such moneys;

(xii) the custody of jewels and other valuables and documents of religious institutions;

(xiii) the manner in which and the period for which leases of properties of religious institutions shall be made;

(xiv) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the auditor's report;

(xv) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied;

(xvi) the security, if any, to be furnished by officers and servants employed for the purposes of this Act;

(xvii) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions including architectural, sculptural and epigraphical features;

(xviii) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for such inspection, supervision and report;



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(xix) the preservation of the images in temples;

(xx) the grant of travelling and halting allowances to the members of the Area Committees or to the trustees;

(xxi) the grant of travelling and halting allowances to the members of—

(a) the Advisory Committee; and

(b) the Consultative Committees or sub-committees thereof constituted under sub-section (4) of section 92;

(xxii) the preparation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions;

(xxiii) the qualifications to be possessed by the officers and servants for appointment to non-hereditary offices in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants;

(xxiv) the manner of proof of the fact that a person professes Hindu religion for the purposes of this Act;

(xxv) the grant of pensions or gratuities to officers and servants of the Board who retired before the 30th September 1951; and

(xxvi) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the 30th September 1951.

(3) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

## CHAPTER XII—TRANSITIONAL.

**117.** *Construction of reference to the Board, President or Commissioner.*—Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the State of Madras or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the State, shall, on and from the 30th September 1951, be construed as a reference to the Commissioner appointed or deemed to have been appointed under this Act.

**118.** *Repeals and savings.*—(1) The Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) (hereinafter in this section referred to as the said Act) is hereby repealed.

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(2) Notwithstanding the repeal of the said Act by sub-section (1)—

(a) all rules made, or deemed to have been made, notifications or certificates issued or deemed to have been issued, orders passed or deemed to have been passed, decisions made or deemed to have been made, proceedings or action taken or deemed to have been taken, schemes settled or deemed to have been settled and things done or deemed to have been done by the Government, the Commissioner, a Deputy Commissioner, an Area Committee or an Assistant Commissioner under the said Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made, issued, passed, taken, settled or done by the appropriate authority under the corresponding provisions of this Act, and shall have effect accordingly;

(b) (i) if any provision contained in any scheme settled or deemed to have been settled under the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), including a scheme settled under section 92 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and in force immediately before the 30th September 1951 is repugnant to any provision contained in this Act or the rules made thereunder, the latter provision shall prevail, and the former provision shall, to the extent of the repugnancy, be void;

(ii) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or an honorary officer or servant of the religious institution or endowment, shall be exercised, and discharged by the Commissioner, Deputy Commissioner, the Area Committee or the Assistant Commissioner, as the case may be, in accordance with the provisions of this Act;

(c) all orders made under section 67 of the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), shall, notwithstanding that they are inconsistent with this Act, continue in force, but any such order may at any time be modified or cancelled by the Deputy Commissioner if it is an order made under sub-section (1) or sub-section (3) of that section and by the Commissioner if it is an order made under sub-section (4) or sub-section (5) of that section; and any person aggrieved by any modification or cancellation made by the Deputy Commissioner may prefer an appeal to the Commissioner within such time as may be prescribed.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of sections 8 and 18 of the Madras General Clauses Act, 1891 (Madras Act I of 1891), with regard to the effect of repeals.

**119. Conditions of service of certain persons.**—(1) The conditions of service of persons appointed under sub-section (1) of section 104 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) shall be regulated by



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rules made by the Government from time to time as if they had entered the service of the Government on the date of their first entertainment as a member of the Board or as its subordinate, as the case may be.

(2) To those not so appointed, the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may, in their discretion, deem fit.

(3) No Court shall entertain any suit or application for damages or compensation by any member of the Board or any of its subordinates affected by sub-section (1) of section 104 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), or for the variation of the relief, if any, granted under sub-section (2) of this section.

**120.** *Commissioner to repay certain sums to the Government.*—Any sum paid by the Government before the publication of this Act in the *Fort St. George Gazette* for the expenses of Consultative Committees or sub-committees thereof shall be repaid to the Government by the Commissioner from out of the Madras Hindu Religious and Charitable Endowments Administration Fund under sub-section (2) of section 96 of this Act, as if sub-section (4) of section 92 of this Act were in force at all relevant times.

**121.** *Travancore-Cochin Act XV of 1950 to cease to apply to certain institutions.*—(1) The Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), as in force in the transferred territory immediately before the date of the commencement of this Act shall, on such commencement, cease to apply in relation to Hindu religious institutions and endowments except Incorporated Devaswoms and Unincorporated Devaswoms.

(2) Such cesser shall not affect—

- (a) the previous operation of such Act, or
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against such Act, or
- (c) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2), anything done or any action taken under any provision of such Act before the date of the commencement of this Act shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to have effect accordingly unless and until superseded by anything done or any action taken under the corresponding provision of this Act.

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(4) Unless the context otherwise requires, the Madras General Clauses Act, 1891 (Madras Act I of 1891), shall apply for the interpretation of this Act in its application to the transferred territory.

(5) For the purpose of facilitating the application of this Act in the transferred territory, any Court or other authority may construe such Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court or other authority.

(6) Any reference in any law which continues to be in force in the transferred territory after the date of the commencement of this Act to any provision ceasing to apply under sub-section (1) shall, in relation to the said territory, be construed as a reference to the corresponding provision in this Act.

(7) Any reference in this Act to a law which is not in force in the transferred territory shall, in relation to that territory, be construed as a reference to the corresponding law, if any, in force in that territory.

**122. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders passed under sub-section (1) shall be laid before each House of the Legislature as soon as possible after they are made and shall be subject to such modifications whether by way of repeal or amendment as the Legislature may make in the same session or in the next session.

#### SCHEDULE.

##### Court-fees payable under the Act.

(See section 104.)

Section.	Description of document.	Proper fee.
(1)	(2)	(3)
		RS.
<b>I. SUITS.</b>		
<u>41</u> (2) (d) (ii) proviso.	Suit for determining whether the inam comprises both the melvaram and kudivaram or only melvaram.	50
<u>53</u> (6)	Suit against order under section 53 (5) .. ..	50
<u>59</u>	Suit for removal of trustee of math or specific endowment attached to math.	50
<u>70</u>	Suit against order of Commissioner .. ..	50
<u>72</u> (4)	Suit for the cancellation of the notification .. ..	50
<u>84</u>	Suit against award .. ..	50



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<i>Section.</i>	<i>Description of document.</i>	<i>Proper fee.</i>
(1)	(2)	(3)
		Rs.
<b>II. APPLICATIONS TO COURT OR TRIBUNAL.</b>		
<u>47</u> (4)	Application to Court against order of Commissioner. .	<u>5</u>
<u>82</u> (1)	Application to the Tribunal . . . . .	<u>5</u>
<u>90</u> (4) (a)	Application to Court against order of surcharge . .	<u>5</u>
<u>101</u>	Application for delivery of possession . . . . .	<u>2</u>
<b>III. APPEALS TO COURT.</b>		
<u>70</u> (2)	Appeal to High Court . . . . .	<u>50</u>
<u>72</u> (5)	Appeal to High Court . . . . .	<u>50</u>
<b>IV. APPLICATIONS TO GOVERNMENT, COMMISSIONER OR DEPUTY COMMISSIONER.</b>		
<u>3</u> (4)	Application to Government for extending the provisions of the Act.	<u>25</u>
<u>21</u>	Application to Commissioner for revision . . . .	<u>5</u>
<u>38</u> (1)	Application by trustee for recovery from person in possession of property of specific endowment.	<u>2</u>
<u>38</u> (2)	Application by person in such possession for recovery from person responsible in law for performance of service or charity.	<u>2</u>
<u>59</u> (1)	Application to Commissioner for consent to suit for removal of trustee of math or specific endowment attached to math.	<u>5</u>
<u>68</u>	Application for decision of dispute or matter under the section.	<u>5</u>
<u>64</u> (1)	Application for settlement of scheme by <u>Deputy Commissioner</u> .	<u>50</u>
<u>64</u> (5) (a)	Application to modify or cancel scheme settled under section 64 (1) or deemed to have been so settled.	<u>25</u>
<u>65</u> (1)	<u>Application for settlement of scheme by the Commissioner.</u>	<u>50</u>
<u>65</u> (4) (a)	<u>Application to modify or cancel scheme settled under section 65 (1) or deemed to have been so settled.</u>	<u>25</u>
<u>66</u> (1)	Application for order under the section . . . .	<u>5</u>
<u>66</u> (2)	Application to modify or cancel order passed under section <u>66</u> (1) or deemed to have been so passed.	<u>5</u>
<u>69</u> (3)	Application to Commissioner to modify or cancel order passed under section <u>69</u> (1) or deemed to have been so passed.	<u>5</u>
<u>72</u> (6)	Application to Government to cancel notification of religious institution under Chapter VI.	<u>5</u>
<u>114</u>	Application to Government for revision . . . .	<u>5</u>
<u>118</u> (2) (e)	Application for modification or cancellation of order under section 67 of the Madras Hindu Religious Endowments Act, 1926.	<u>5</u>

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<i>Section.</i>	<i>Description of document.</i>	<i>Proper fee.</i>
(1)	(2)	(3)
	<b>V. APPEALS TO GOVERNMENT, COMMISSIONER OR DEPUTY COMMISSIONER OR TRUSTEE.</b>	<b>RS.</b>
<u>22</u> (5)	Appeal to Government against order of Commissioner.	<u>5</u>
<u>26</u> (5)	Appeal to Commissioner against order of Deputy Commissioner.	<u>5</u>
<u>34</u> (4)	Appeal to Government against order of Commissioner regarding alienation of property.	<u>5</u>
<u>37</u>	Appeal to Government against order of Commissioner under section 36.	<u>5</u>
<u>38</u> (3)	Appeal to Government against order of Commissioner under section 38 (1) or (2).	<u>5</u>
<u>38</u> (3)	Appeal to Commissioner against order of Deputy Commissioner under section 38 (1) or (2).	<u>5</u>
<u>53</u> (5)	Appeal by trustee against order of punishment ..	<u>5</u>
<u>54</u> (4)	Appeal to Commissioner against order of Deputy Commissioner appointing temporary successor to hereditary trustee.	<u>5</u>
<u>55</u> (4)	Appeal to Deputy Commissioner against order of trustee under section 55 (3).	<u>5</u>
<u>56</u> (2)	Appeal to Deputy Commissioner by office-holder or servant against order of punishment passed by a trustee.	<u>5</u>
<u>56</u> (3)	Appeal to Commissioner by hereditary office-holder or servant against appellate order of Deputy Commissioner.	<u>5</u>
<u>58</u> (4)	Appeal to Deputy Commissioner against order of Area Committee regarding <i>dittam</i> .	<u>5</u>
<u>58</u> (4)	Appeal to Commissioner against appellate order of Deputy Commissioner.	<u>5</u>
<u>59</u> (2)	Appeal to Government against Commissioner's refusal to give consent.	<u>5</u>
<u>69</u> (1)	Appeal to Commissioner against order of Deputy Commissioner under Chapter V.	<u>5</u>
<u>79</u> (1)	Appeal to Commissioner against order of Deputy Commissioner.	<u>5</u>
<u>81</u> (1)	Appeal to Commissioner against order of Deputy Commissioner.	<u>5</u>
<u>86</u> (4)	Appeal against order regarding budget—	
	(i) to Deputy Commissioner .. .. .	<u>5</u>
	(ii) to Commissioner .. .. .	<u>5</u>
	(iii) to Government .. .. .	<u>5</u>
<u>90</u> (4) (b)	Appeal to Government against order of surcharge ..	<u>5</u>
<u>118</u> (2) (e)	Appeal to Commissioner against any modification or cancellation made by Deputy Commissioner.	<u>5</u>

T. HANUMANTHAPPA,  
Secretary to the State Legislature.



[4th September 1959]

## ANNEXURE.

## MINUTES OF DISSENT.

The Bill which is apparently intended to carry out amendments to the Act relating to the administration of the Hindu Religious Endowments is not merely brought forward as just a few amendments to some sections of the old Act but actually to completely replace the old enactment with a new one. At the same time it suffers from the very serious defect of not being comprehensive enough to effectively remedy all the defects in the old enactment.

The above observation will clearly be seen in the matter relating to the provisions as regards the administration of maths in this Bill. Public opinion has been strongly expressing itself in the last few years and especially after Independence against the misuse of funds and malpractices found in many religious institutions.

There should be no interference with the right of worship or of belief in the given religious institutions. But it is necessary to see that under the name of religion, persons in possession of vast funds as administrative heads of religious institutions really put those funds to those religious observances or purposes of worship enjoined by the foundation document or usage of the institution, and not for any other personal purpose of the administrative head. In the light of modern conditions in a secular state therefore while protecting all religious rights and observances it would yet be correct to see that the surplus funds other than those actually needed for the institution are not misused but utilised for urgent and necessary public and charitable purposes at least. The provisions of this Bill do not go far enough to ensure this. At every turn Article 26 of the Constitution is invoked while it is however conceded that some control is necessary by bringing forward this very Bill.

By clause 4 of the Bill the Government wants power to exempt any religious institution. As no reasons are given for this exemption from the operation of the Bill there is every likelihood of its misuse and I feel that this clause should be dropped.

Vide sub-clause (3) of clause 33 even in the cases of breach of trust, fraudulent transaction, misappropriation and such similar acts cannot be proceeded against under the Penal Code as this sub-clause limits action only to collecting of surcharge. The very object of the Bill to prevent misuse of the funds of the Religious Institutions is defeated. This sub-clause should be suitably amended enabling penal provision.

In addition to the above I feel that the following should be clearly provided for in the Bill:—

(1) Area Committees should consist of peoples' representatives elected by a suitable and appropriate method;

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(2) The emoluments and conditions of service of temple servants must at least be raised to that of the Last Grade Government servants;

(3) The lease of temple lands should be made directly to tenants and tenants' co-operatives without intermediaries and suitable changes should be made in the Fixation of Fair Rent Act to make it applicable to all tenants of lands under the religious institutions;

(4) Jewels which are admittedly old and not at all in use belonging to the religious institutions may be taken over by the Board and unless retained as a relic may be disposed and the proceeds added to the funds of the religious institutions.

MADRAS,  
19th August 1959.

N. K. PALANISAMY.

## II

The Bill has been drafted on the same lines as the present Hindu Religious and Charitable Endowments Act of 1951 in force. It must be remembered that this Act was the subject of careful judicial scrutiny by the High Court of Madras and by the Supreme Court, in the Shirur Mutt Case, in respect of the provisions of the Act relating to the fundamental rights of Madathipathis as guaranteed by Articles 25 and 26 of the Constitution. Soon after the Supreme Court decision, there was an amendment of the Act in 1954 to give effect to the Supreme Court decision which held certain sections of the Act invalid. The amending Act of 1954 has been again subjected to judicial scrutiny by the High Court in the Udipi Mutt Case. The judgment of the High Court is reported in 1956 (1) M.L.J., p. 532. Even the amended sections such as sections 21, 30 (2), 31, 76 (5) have been held invalid. The present Bill gives effect to the decision of the High Court and at the same time, it has introduced other provisions which, according to the Government, are introduced to remove the difficulties found in the actual administration of the Act during the years 1951 to 1959.

The effect of these changes may be generally summed up as (1) increase of the powers of the Commissioner and other officers under him, (2) making the appointment of the Executive Officers a regular feature in temple administration and also making the Executive Officers servants of the Government, (3) reducing the status of the Trustees of temples, and on the whole, making the administration of the Religious Endowments fully departmentalised and centralized with the Commissioner as the pivot, subject to the control of the Minister for Religious Endowments. How far this principle and policy of the Bill is in consonance with the principle of the Secular State as conceived by the Constitution of India and the fundamental autonomy granted to religious denominations by Article 26 of the Constitution is a matter seriously to be considered. While it is admitted that the Bill can and ought to make provisions for the prevention of mismanagement and breaches of trust, it is



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clear from the Constitution that the autonomy of the religious denominations in respect of the management of religious institutions belonging to them should be preserved and the fundamental rights guaranteed to them under the Constitution should not be interfered with. Even in the case of temples a recent judgment of the Mysore High Court, in the writ petition filed by the trustees of the Sri Konkani Venkataramana Temple and the Hale Marigudi Temple in South Kanara, has held that the provisions relating to the appointment, removal and dismissal of trustees of religious institutions by the Commissioner and the Area Committee violated Article 26 of the Constitution, as they infringed the right of religious denominations to administer religious institutions. Viewed in the light of the principle enunciated by the Mysore High Court, the appointment of additional trustees in the case of temples managed by the hereditary trustees and the removal of hereditary trustees by the Commissioner will also be open to the same objection. With a view to preserve the autonomy of the religious denominations it was suggested in the evidence and also in the Select Committee that the general administration may be vested in an independent statutory body. This suggestion has not been accepted. Only an Advisory Body has been proposed to be constituted by clause 7 of the Bill. Even in the case of this Advisory Body it could have been provided that the Government shall be guided by such advice. But this has not been done.

The necessity for an independent body chiefly arises on account of the fact that religious institutions should not be subjected to the political changes that are likely to happen according to a parliamentary system of Government. It may be that even the Minister in charge of Religious Endowments may be a person who does not profess the Hindu Religion or not religious minded or one who does not believe in these religious institutions at all. A suggestion was made that the appointment, removal and dismissal of trustees may be vested in the Court having jurisdiction in the places where the institutions are situated. This also has not been accepted. One of the Members of the Select Committee Sri P. T. Rajan suggested that there might be a separate Judicial Commissioner for the adjudication of the right of parties in disputes that may arise in respect of these institutions and that the Commissioner in charge of the executive administration and the Judicial Commissioner may be separate and independent. The usefulness of the Area Committee was also doubted by some. If these suggestions had been accepted and incorporated in the Bill, the departmentalisation and the centralisation that I referred to above may have been reduced to a great extent. These would have gone a great way also to preserve the autonomy of the religious denominations in the management of these institutions. While it is necessary that the evils of mismanagement and breaches of trust should be eradicated, it has been tacitly assumed without justification that the officers controlling the department will be free from defects, partialities or prejudices or incapacity, arbitrariness or corruption and the evils lie only with the trustees and others in the management of these religious institutions.

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I have also to object to the principle embodied in the clause (106) of the Bill relating to the discrimination in regard to the distribution of prasadam and thirtham to the worshippers. An absolute prohibition of the kind envisaged in the clause will lead to serious practical difficulties and may even involve the institution in unnecessary litigation. Many instances can be thought of which may give rise to difficulty. I may point out one instance. A person who has given large financial help to a temple and has been responsible for repairs, renovation and construction may in sheer gratitude on a particular occasion, be preferred in the distribution of prasadam and thirtham by the persons so distributing. The existence of a clause like this will incite some persons to give trouble and bring the matter to Court. Officers of the Endowment Department may be preferred in such distribution. Though the clause says discrimination should not be made "by reason only of caste, sex, place of birth or all or any of them", it is difficult to draw a line in specific cases. The clause is introducing unnecessary trouble and annoyance. I have therefore to oppose this clause and it should be deleted. I would also suggest that as all the officers from the Commissioner downwards are all made Government servants by the Bill, it will be very desirable that the power to select these people is entrusted to the State Public Service Commission as in other cases.

In conclusion as all these religious institutions have come to existence by the munificence, public spirit and piety of past generations of our forefathers the preservation of the integrity and usefulness and their proper management will ultimately rest on the force of the vigilant public opinion of pious Hindus and any amount of legislation and administration by State Officers can never be an effective substitute for the beneficent effects of organised public opinion. If these religious institutions are effective in the promotion of character, they will produce certainly men of character in society who will manage them well. We have to approach this Bill with faith in our people whose forefathers have been responsible for the establishment of these institutions and from among whom the peaks of humanity, the Nayanmars, Alwars and Acharyas had arisen in the past.

MADRAS,  
20th August 1959.

K. BALASUBRAMANIA AYYAR.

